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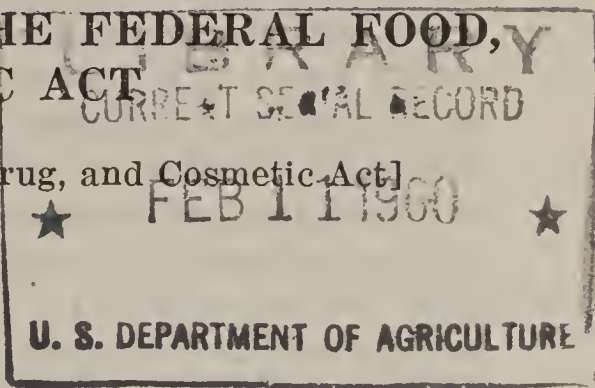
U.S. Department of Health, Education, and Welfare
FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

25351-25450

FOODS



The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were adulterated or misbranded within the meaning of the Act when introduced into and while in interstate commerce or while held for sale after shipment in interstate commerce. These cases involve (1) seizure proceedings in which decrees of condemnation were entered by default or by consent; (2) criminal proceedings which were terminated upon pleas of guilty or nolo contendere; and (3) an injunction proceeding terminated upon the entry of a permanent injunction by consent. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the criminal and injunction proceedings are against the *firms* or *individuals* charged to be responsible for violations.

Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D.C., *January 4, 1960.*

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**SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN VIOLATIONS
REPORTED IN F.N.J. NOS. 25351-25450**

Adulteration, Section 402(a) (1), the article contained an added deleterious substance which may have rendered it injurious to health; Section 402(a) (2), the article in one case contained an added poisonous or deleterious substance which was unsafe within the meaning of Section 406; and, in two cases, the article was a raw agricultural commodity and contained a pesticide chemical which was unsafe within the meaning of Section 408(a); Section 402(a) (3), the article consisted in part of a filthy or decomposed substance, or it was otherwise unfit for food; Section 402(a) (4), the article had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth; Section 402(b) (1), a valuable constituent had been in whole or in part omitted or abstracted from the article; Section 402(b) (2), a substance had been substituted wholly or in part for the article; Section 402(b) (4), a substance had been added to the article or mixed or packed therewith so as to increase its bulk or weight or reduce its quality; Section 406(a), a poisonous or deleterious substance was added to food when such substance was not required in the production thereof and could have been avoided by good manufacturing practice; and Section 408(a), a poisonous or deleterious pesticide chemical had been added to a raw agricultural commodity; and no tolerance or exemption from the requirement of a tolerance for such pesticide chemical in or on the raw agricultural commodity had been prescribed by the Secretary of Health, Education, and Welfare; or such tolerance had been so prescribed, and the quantity of the pesticide chemical was in excess of the tolerance.

Misbranding, Section 403(a), the labeling of the article was false and misleading; Section 403(b), the article was offered for sale under the name of another food; Section 403(e) (2), the article was in package form, and it failed to bear a label containing an accurate statement of the quantity of contents in terms of weight; Section 403(f), a word, statement, or other information required by the Act to appear on the label of the article was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; Section 403(h) (1), the article purported to be and was represented as a food for which a standard of quality had been prescribed by regulations, and it fell below such standard and its label failed to bear a statement that it fell below such standard; Section 403(i) (2), the article was not subject to the provisions of Section 403(g) and it was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient.

CEREALS AND CEREAL PRODUCTS

BAKERY PRODUCTS

25351. Bakery products. (F.D.C. No. 42395. S. Nos. 1-737 P, 1-741 P, 2-702 P, 3-165/8 P, 28-361 P.)

INFORMATION FILED: 3-3-59, N. Dist. Ga., against Dortch Baking Co., a partnership, Atlanta, Ga., Dudley L. Dortch, Jr., a partner, and Garvice W. Prince, an employee.

SHIPPED: Between 4-25-58 and 8-1-58, from Georgia to North Carolina and Alabama.

LABEL IN PART: (Pkg.) "UKANEATA Sandwich Pie Net Weight $1\frac{1}{4}$ Ozs."; "Dortch's Ukanata Sandwich Cake LUNCH CAKE Net Wt. $1\frac{1}{4}$ Oz."; and "Dortch's Vanilla Wafers Net Weight 3 Oz."

CHARGE: 402(a)(3)—contained insect parts and rodent hair fragments; and 402(a)(4)—prepared and packed under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 3-9-59. Corporation—\$1,000 fine; Dudley Dortch, Jr.—\$125 fine; Garvice Prince—\$50 fine.

25352. Bread. (F.D.C. No. 41763. S. Nos. 6-986 P, 6-988 P, 6-990/91 P, 6-994/7 P.)

INFORMATION FILED: 12-16-58, Dist. Mass., against My Own Quality Bakery, Inc., Fall River, Mass., and Israel Lipson, treasurer.

SHIPPED: Between 3-25-58 and 4-4-58, from Massachusetts to Rhode Island.

LABEL IN PART: (Pkg.) "Lipson's Jewish Rye Bread"; "Lipson's Port Bread"; and "French Bread."

CHARGE: 402(a)(3)—contained rodent hair fragments; and 402(a)(4)—prepared under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 2-16-59. Individual—fined \$500; corporation—fined \$1.

25353. Chocolate cookies. (F.D.C. No. 42912. S. No. 4-289 P.)

QUANTITY: 24 cases, 24 bags each, at Landover, Md.

SHIPPED: 2-20-59, from Joplin, Mo., by Guthrie Biscuit Co.

LABEL IN PART: (Bag) "Busy Baker Pure Chocolate Fudge Sandwich Net Wt. One Full Pound * * * Distributed by Safeway Stores Incorporated * * * Oakland, California. Ingredients: Flour, Shortening, Sugar, Cocoa, Invert Syrup, Nonfat Dry Milk Solids, Malt, Hard Vegetable Butter, Salt Leavening, Lecithin, Artificial Flavors."

LIBELED: 3-31-59, Dist. Md.

CHARGE: 402(b)(1)—when shipped, a valuable constituent, chocolate, had been in whole or in part omitted from the article; 402(b)(2)—cocoa had been in whole or in part substituted for chocolate; 403(a)—the label statement "Pure Chocolate Fudge" was false and misleading; 403(f)—the statement of ingredients was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; and 403(i)(2)—the article was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient since "hard vegetable butter" is not the common or usual name of this shortening ingredient.

DISPOSITION: 4-29-59. Default—delivered to local charitable institutions.

25354. Chocolate cream pie. (F.D.C. No. 42841. S. No. 47-574 P.)

QUANTITY: 18 cases, 6 individually cartoned pies each, at Watertown, Mass.

SHIPPED: 1-13-58, from Wethersfield, Conn., by Farm House Frozen Pies, Div. Connecticut Pie Baking Co., Inc.

LABEL IN PART: (Ctn.) "Farm House * * * Chocolate Cream Pie * * * Net Wt. 1 Lb."

LIBELED: 2-13-59, Dist. Mass.

CHARGE: 402(a)(3)—contained mold filaments; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 3-16-59. Default—destruction.

25355. Frozen fruit pies. (F.D.C. No. 42649. S. Nos. 11-580 P, 47-018/20 P.)

QUANTITY: 273 cases, 6 apple pies each; 49 cases, 6 peach pies each; 33 cases, 6 cherry pies each; and 77 cases, 6 blueberry pies each, at Milwaukee, Wis.

SHIPPED: 11-7-58, from Webster City, Iowa, by Morton Frozen Foods, Div. Continental Baking Co.

LABEL IN PART: (Ctn.) "Net Wt. 1 lb. 8 oz. Morton Family Size Frozen * * * Pie Now Butter in the Crust."

LIBELED: 12-22-58, E. Dist. Wis.

CHARGE: 403(a)—when shipped, the label statement "Butter in the Crust" was false and misleading as applied to the article which contained little or no butter in the crust.

DISPOSITION: 1-30-59. Consent—claimed by Continental Baking Co. and re-labeled.

25356. Frozen pecan pies and frozen macaroni and cheese casseroles. (F.D.C. No. 42824. S. Nos. 47-576/7 P.)

QUANTITY: 213 cases, 6 ctns. each, of frozen pecan pies, and 249 cases, 12 ctns. each, of frozen macaroni and cheese casseroles, at North Abington, Mass.

SHIPPED: 1-12-59, from Wethersfield, Conn., by Farm House Frozen Pies, Div. Connecticut Pie Baking Co., Inc.

LABEL IN PART: (Ctn.) "Frozen Pecan Pie * * * Farm House Frozen Pies Div. Connecticut Pie Baking Co., Inc., * * * Net Weight 1 Lb. 2 Oz. or over," and "One Full Pound Farm House Frozen Macaroni and Cheese Casserole * * * Farm House Frozen Pies Div. Conn. Pie Baking Co., Inc."

LIBELED: 2-9-59, Dist. Mass.

CHARGE: 403(e)(2)—when shipped, the articles failed to bear a label containing an accurate statement of the quantity of contents (the articles were short weight); 403(f)—the statement of ingredients (both lots), and the quantity of contents statement (pecan pie), were not placed on the labels with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) and in such terms as to render them likely to be read and understood by the ordinary individual under customary conditions of purchase and use; and 403(i)(2)—(macaroni and cheese) the label failed to bear the common or usual name of each ingredient contained therein since starch was not declared.

DISPOSITION: 3-16-59. Default—delivered to a charitable institution for its use and not for sale.

CORNMEAL*

25357. Cornmeal. (F.D.C. No. 42417. S. Nos. 16-914/5 P.)

INFORMATION FILED: 2-24-59, S. Dist. Ind., against Bundy Bros. & Sons, a partnership, Medora, Ind., and Leland R. Bundy.

SHIPPED: 8-14-58, from Indiana to Kentucky.

*See also No. 25364.

LABEL IN PART: (Bag) "50 Lbs. Dorsel's Plain White Corn Meal Degenerated [or "Self-Rising White Corn Meal Degenerated Enriched"] Manufactured for The Dorsel Company, Newport, Kentucky 548."

CHARGE: 402(a)(3)—contained insects, insect fragments, rodent excreta pellets, and rodent hairs; and 402(a)(4)—prepared and packed under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 4-1-59. Each defendant fined \$250, plus costs.

FLOUR

25358. Flour and rice. (F.D.C. No. 41741. S. Nos. 72-940/1 M, 73-169/71 M, 89-918/9 M.)

INFORMATION FILED: 6-27-58, Dist. Colo., against Knoebel Mercantile Co., a corporation, Denver, Colo., and Ferdinand C. Knoebel, president.

ALLEGED VIOLATION: Between 6-25-57 and 12-11-57, the defendants caused quantities of flour and rice, while held for sale after shipment in interstate commerce, to be placed in a building accessible to rodents and to be exposed to contamination by rodents, which acts resulted in the article being adulterated.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

PLEA: Guilty—by the corporation to all counts; and nolo contendere—by the individual to two counts involving the flour.

DISPOSITION: 2-6-59. Corporation—\$1,400 fine; individual—\$350 fine.

25359. Flour. (F.D.C. No. 42428. S. Nos. 14-015 P, 32-685 P.)

INFORMATION FILED: 3-9-59, Dist. Minn., against La Grange Mills, a corporation, Red Wing, Minn., Louis W. Back, president, and Earl F. Holmquist, head miller.

SHIPPED: 9-10-58 and 9-18-58, from Minnesota to New Jersey and Illinois.

LABEL IN PART: (Bag) "100 Lbs. Net RED LION FLOUR [or "LA GRANGE GOODHUE EXTRA FANCY CLEAR FLOUR"] La Grange Mills Red Wing, Minnesota."

CHARGE: 402(a)(3)—contained insect fragments and rodent hair fragments; and 402(a)(4)—prepared under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 3-23-59. The court imposed a fine of \$500 against the defendants jointly.

25360. Flour. (F.D.C. No. 41195. S. Nos. 77-370 M, 77-203 M, 1-063 P, 2-072 P.)

INFORMATION FILED: 10-17-58, W. Dist. S.C., against Henry Grady Ables, t/a Oconee Roller Mills, Seneca, S.C.

SHIPPED: Between 7-1-57 and 1-10-58, from South Carolina to Georgia.

LABEL IN PART: (Bag) "10 Lbs. Net. [or "25 Lbs." or "50 Lbs."] Bleached Enriched PRIDE of CAROLINA Self-Rising FLOUR Seneca Milling Co. Seneca, S.C."; "10 Lbs. Net Wt. TUTT'S HIGH GRADE FAMILY FLOUR Bleached Self-Rising Flour McDowell Grocery Co. Madison, Ga."; and "25 Lbs. Net Wt. GEORGIA ROSE Self-Rising Flour Enriched—Bleached Milled By Oconee Roller Mills Seneca, S.C."

CHARGE: 402(a)(3)—contained insects and insect parts; and 402(a)(4)—prepared and packed under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 4-6-59. \$500 fine and probation for 2 years.

25361. Flour and hominy. (F.D.C. No. 42441. S. Nos. 55-472/3 P.)

INFORMATION FILED: 4-15-59, E. Dist. Okla., against Palmer-Swadley Wholesale Co., a partnership, Eufaula, Okla., and Guy Swadley, Jr., a partner.

ALLEGED VIOLATIONS: Between 9-18-58 and 11-18-58, the defendant caused quantities of flour and hominy, while held for sale after shipment in interstate commerce, to be placed in a building that was accessible to rodents and insects and to be exposed to contamination by rodents and insects, which acts resulted in the articles being adulterated.

CHARGE: 402(a)(3)—the flour contained rodent urine and insects; and 402(a)(4)—the flour and the hominy were held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 4-23-59. Each defendant fined \$100.

25362. Flour. (F.D.C. No. 42543. S. No. 43-932 P.)

QUANTITY: 235 bales, 5 10-lb. bags each, at Augusta, Ga., in possession of Ammons Grocery Co.

SHIPPED: 9-27-58, from Chattanooga, Tenn.

LIBELED: 12-5-58, S. Dist. Ga.

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 2-6-59. Consent—claimed by Ammons Grocery Co. and reprocessed for use as animal feed.

25363. Flour. (F.D.C. No. 42941. S. No. 55-292 P.)

QUANTITY: 441 bags at Omaha, Nebr.

SHIPPED: 2-12-59, from Lamar, Colo., by Lamar Flour Mills Co.

LABEL IN PART: (Tag) "100 Lbs. Net Clear Flour Manufactured by the Lamar Flour Mills Co., Lamar, Colorado."

LIBELED: 3-16-59, Dist. Nebr.

CHARGE: 402(a)(3)—contained rodent urine when shipped.

DISPOSITION: 3-20-59. Consent—claimed by Omaha Flour Mills Co., Omaha, Nebr., and converted into animal feed.

25364. Flour, cornmeal, and dried lima beans. (F.D.C. No. 42828. S. Nos. 53-907/11 P.)

QUANTITY: 32 50-lb. bags of flour, 86 25-lb. bags of cornmeal, 9 100-lb. bags and 12 25-lb. bags of dried lima beans, at Little Rock, Ark., in possession of Kimbell-Little Rock Co.

SHIPPED: Between 7-22-58 and 12-19-58, from Denton and Dallas, Tex., St. Joseph, Mo., and Memphis, Tenn.

LIBELED: 2-16-59, E. Dist. Ark.

CHARGE: 402(a)(3)—contained (flour and cornmeal) rodent urine and rodent excreta pellets, and (lima beans) insects and insect-damaged beans; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 3-27-59. Default—delivered to a public institution, for use as animal feed.

25365. Flour. (F.D.C. No. 42910. S. No. 50-119 P.)

QUANTITY: 145 25-lb. bags at East Bernstadt, Ky., in possession of Laurel Grocery Co.

SHIPPED: Between 1-8-59 and 1-12-59, from Trenton, Ill.

LIBELED: 3-30-59, E. Dist. Ky.

CHARGE: 402(a) (3)—contained rodent urine and rodent excreta pellets; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 5-1-59. Default—delivered to a public institution, for use as animal feed.

25366. Flour. (F.D.C. No. 42377. S. No. 38-709 P.)

QUANTITY: 242 25-lb. bags at Pocahontas, Ark., in possession of L. K. Ashcraft Co.

SHIPPED: 8-29-58, from Wichita, Kans.

LIBELED: 12-5-58, E. Dist. Ark.

CHARGE: 402(a) (3)—contained rodent urine, rodent excreta, and rodent hairs; and 403(a) (4)—held under insanitary conditions.

DISPOSITION: 2-6-59. Default—delivered to a public institution, for use as animal feed.

25367. Cottonseed flour and rice. (F.D.C. No. 42868. S. Nos. 47-384/5 P.)

QUANTITY: 111 100-lb. bags of cottonseed flour, and 43 100-lb. bags of rice, at Boston, Mass., in possession of Bowker Storage & Distributing Co.

SHIPPED: 9-2-58 and 9-8-59, from Fort Worth, Tex., and Stuttgart, Ark.

LIBELED: 3-4-59, Dist. Mass.

CHARGE: 402(a) (3)—contained (flour) insect larvae, and (rice) rodent urine, and rodent excreta pellets; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 4-14-59. Consent—the cottonseed flour was claimed by Traders Oil Mill Co., Inc., Houston, Tex., and the rice was claimed by Arkansas Rice Growers Cooperative Association, Stuttgart, Ark. Segregated; 200 lbs. of the rice and all of the cottonseed flour was destroyed.

MACARONI AND NOODLE PRODUCTS***25368. Macaroni and egg noodles.** (F.D.C. No. 42021. S. Nos. 30-744/5 P, 30-959 P.)

INFORMATION FILED: 9-11-58, N. Dist. Ohio, against Pfaffman Co., a corporation, Cleveland, Ohio.

SHIPPED: Between 12-17-57 and 2-24-58, from Ohio to New York.

LABEL IN PART: (Bag) "CLIMAX Wheat & Soy Macaroni Products Net Wt. 7 Ozs. The Pfaffman Co. Cleveland, Ohio" and "Pfaffman's Climax Spinach Egg Noodles Net Wt. 5 Oz. The Pfaffman Co., Cleveland, Ohio."

CHARGE: 403(e) (2)—when shipped, the articles failed to bear labels containing an accurate statement of the quantity of contents since the packages containing the articles contained less than the declared weight.

PLEA: Guilty.

DISPOSITION: 3-2-59. \$200 fine on each of three counts. Fine imposed on counts 2 and 3 was suspended on condition that the firm does not violate the law again.

*See also No. 25356.

25369. Chow mein noodles. (F.D.C. No. 41168. S. No. 76-687 M.)

INFORMATION FILED: 3-5-58, Dist. Mass., against Chinese Food Products, Inc., Rockland, Mass., and Harry R. King, president and treasurer.

SHIPPED: Between 9-13-57 and 10-1-57, from Massachusetts to Maine.

LABEL IN PART: (Pkg.) "SOM TOY BRAND CHOW MEIN NOODLES CONTENTS 3 OZ. AVOIR. PACKED BY SOM TOY Chinese Food Products, Inc. ROCKLAND, MASS."

CHARGE: 402(a)(3)—contained insects and insect parts; and 402(a)(4)—prepared under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 3-23-59. Corporation—\$100 fine; King—probation for one year.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS*

25370. Rice and dried mung beans. (F.D.C. No. 42818. S. Nos. 40-659/62 P.)

QUANTITY: 247 50-lb. bags of rice and 305 100-lb. bags of dried mung beans at West Sacramento, Calif., in possession of Haslett Warehouse Co.

SHIPPED: 1-16-58 and 6-17-58 (mung beans), from Vernon, Tex., and Enid, Okla.; and 8-1-58 and 11-12-58 (rice), from Stuttgart, Ark., and Alvin, Tex.

LIBELED: 2-10-59, N. Dist. Calif.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 3-11-59. Consent—claimed by North American Food Distributing Co., Bill Tong, and G. T. Sakai & Co., Sacramento, Calif. Segregated; 770 lbs. of rice and 690 lbs. of dried mung beans denatured.

25371. Rice. (F.D.C. No. 42959. S. Nos. 24-726 P, 24-728/9 P.)

QUANTITY: 25 100-lb bags and 16 50-lb. bags at Los Angeles, Calif., in possession of Eastern Grocery Co.

SHIPPED: 8-27-58 and 12-29-58, from Crowley, La., and Houston, Tex.

LIBELED: 3-30-59, S. Dist. Calif.

CHARGE: 402(a)(3)—contained rodent urine and rodent excreta; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 4-29-59. Consent—claimed by Eastern Grocery Co. Segregated; 257 lbs. destroyed.

25372. Rice, barley, rolled oats, unpopped popcorn, dried navy beans, dried green split peas, dried black-eyed peas, dried Great Northern beans, and dried cranberry beans. (F.D.C. No. 42185. S. Nos. 13-139/40 P, 13-861/3 P, 13-865/70 P.)

QUANTITY: 7 100-lb. bags, 20 25-lb. bags, and 86 2-lb. bags, of rice; 3 100-lb. bags of rolled oats; 11 100-lb. bags of unpopped popcorn; 4 cases, 24 1-lb. bags each, of dried cranberry beans; 22 cases, 24 1-lb. pkgs. each, of barley; 14 cases, 12 2-lb. bags each, of dried navy beans; 71 cases, 24 1-lb. bags each, of dried Great Northern beans; 14 cases, 12 2-lb. bags each, of dried black-eyed peas; and 19 cases, 24 1-lb. bags each, of dried green split peas, at Gary, Ind., in possession of Indiana Wholesale Food Supply Corp.

*See also Nos. 25358, 25367.

SHIPPED: Between 11-17-55 and 7-23-58, from Arkansas, Illinois, Iowa, Michigan, and Missouri.

LIBELED: 9-17-58, N. Dist. Ind.

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 5-27-59. Consent—destruction.

25373. Wheat. (F.D.C. No. 42954. S. No. 54-293 P.)

QUANTITY: 62,000 lbs. at St. Louis, Mo.

SHIPPED: 3-11-59, from Dorchester, Ill., by Dorchester Cooperative Elevator Association.

LIBELED: 3-23-59, E. Dist. Mo.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 3-27-59. Consent—claimed by Dorchester Cooperative Elevator Association, and Hoit-Lowell Co., St. Louis, Mo., and converted into animal feed.

25374. Wheat. (F.D.C. No. 42944. S. No. 21-761 P.)

QUANTITY: 81,000 lbs. at Omaha, Nebr.

SHIPPED: 3-6-59, from Seward, Nebr., to Council Bluffs, Iowa, and from there returned to Omaha, Nebr., by Continental Grain Co.

LIBELED: 3-16-59, Dist. Nebr.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 4-1-59. Consent—claimed by Continental Grain Co. Segregated; 4,020 lbs. destroyed.

25375. Wheat. (F.D.C. No. 42953. S. No. 43-694 P.)

QUANTITY: 115,200 lbs. at Denver, Colo.

SHIPPED: 3-5-59, from Norma, N. Dak., by Farmers Cooperative Elevator Co.

LIBELED: 3-23-59, Dist. Colo.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 4-1-59. Consent—claimed by Farmers Union Grain Terminal Association, St. Paul, Minn., and converted into animal feed.

25376. Wheat. (F.D.C. No. 42945. S. Nos. 42-677/8 P.)

QUANTITY: 90,000 lbs. at Spokane, Wash.

SHIPPED: 3-4-59, from Conrad, Mont., by Equity Cooperative Association.

LIBELED: 3-19-59, E. Dist. Wash.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 4-2-59. Consent—claimed by Farmers Union Grain Terminal Association, Spokane, Wash. Segregated; 4,460 lbs. destroyed.

25377. Wheat (2 seizure actions). (F.D.C. Nos. 42955, 42962. S. Nos. 27-450/2 P, 27-454 P.)

QUANTITY: 421,800 lbs. at Brandon and St. Paul, Minn.

SHIPPED: Between 3-4-59 and 3-10-59, from Alexander, N. Dak., by Alexander Farmers Grain & Oil Co.

LIBELED: 3-20-59 and 4-1-59, Dist. Minn.

CHARGE: 402(a) (2)—when shipped, the article was a raw agricultural commodity and contained a pesticide chemical, namely, a mercurial compound, which is unsafe within the meaning of 408 since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat has been prescribed by regulations.

DISPOSITION: 4-6-59. Consent—claimed by Alexander Farmers Grain & Oil Co. Segregated; 29,420 lbs. destroyed.

25378. Wheat. (F.D.C. No. 42951. S. No. 13-997 P.)

QUANTITY: 205 bushels at Hamlet, Ind.

SHIPPED: 3-12-59, from Hamlet, Ind., by Starke County Farm Bureau Cooperative, to Chicago, Ill., and from there returned to Hamlet, Ind.

LIBELED: 3-23-59, N. Dist. Ind.

CHARGE: 402(a) (3)—contained rodent excreta pellets when shipped.

DISPOSITION: 4-15-59. Consent—claimed by Starke County Farm Bureau Cooperative, and converted into animal feed.

25379. Wheat. (F.D.C. No. 42911. S. No. 49-388 P.)

QUANTITY: 108,000 lbs. at Seattle, Wash.

SHIPPED: 3-4-59, from Hingham, Mont., by Atwood Larson, ex Farmers Elevator Co.

LIBELED: 3-27-59, W. Dist. Wash.

CHARGE: 402(a) (3)—contained rodent pellets when shipped.

DISPOSITION: 4-17-59. Consent—claimed by Atwood Larson Co. and converted into animal feed.

25380. Wheat. (F.D.C. No. 42940. S. No. 47-272 P.)

QUANTITY: 500 bushels at Covington, Ind.

SHIPPED: 3-10-59, from Covington, Ind. to Chicago, Ill., and from there returned to Covington, by Covington Grain Co.

LIBELED: 4-7-59, S. Dist. Ind.

CHARGE: 402(a) (3)—contained rodent excreta pellets when shipped.

DISPOSITION: 4-24-59. Consent—claimed by Covington Grain Company, Inc., and converted into animal feed.

25381. Farina. (F.D.C. No. 42921. S. Nos. 35-095/6 P.)

QUANTITY: 97 100-lb. bags at Trenton, N.J.

SHIPPED: 2-25-59, from Buffalo, N.Y.

RESULTS OF INVESTIGATION: Examination showed that the article was shipped in a rodent-infested railroad car.

LIBELED: 4-3-59, Dist. N.J.

CHARGE: 402(a) (4)—held under insanitary conditions.

DISPOSITION: 4-21-59. Consent—claimed by Reading Co., Philadelphia, Pa., and converted into animal feed.

25382. Breeding mix. (F.D.C. No. 42914. S. No. 48-086 P.)

QUANTITY: 160 225-lb. drums at Boston, Mass.

SHIPPED: 6-1-56, from Chicago, Ill.

LIBELED: 3-30-59, Dist. Mass.

CHARGE: 402(a) (3)—contained insects, insect fragments, and insect webbing while held for sale.

DISPOSITION: 5-25-59. Default—destruction.

CHOCOLATE, SUGAR, AND RELATED PRODUCTS

CHOCOLATE PRODUCTS

25383. Cocoa beans. (F.D.C. No. 42786. S. No. 34-944 P.)

QUANTITY: 345 150-lb. bags at Elizabethtown, Pa.

SHIPPED: 11-19-58 and 11-26-58, from New York, N.Y.

LIBELED: 1-14-59, E. Dist. Pa.

CHARGE: 402(a) (3)—contained insects while held for sale.

DISPOSITION: 1-27-59. Consent—claimed by Klein Chocolate Co., Elizabethtown, Pa. Segregated; 2,830 lbs. destroyed.

25384. Instant chocolate-flavored mix. (F.D.C. No. 42660. S. No. 40-248 P.)

QUANTITY: 620 cases, 12 1-lb. cans each, at San Francisco, Calif.

SHIPPED: 10-10-58 and 12-16-58, from Milwaukee, Wis., by Robert A. Johnston Co.

LABEL IN PART: (Can) "Johnston Instant Chocolate Flavored Mix."

LIBELED: 1-20-59, N. Dist. Calif.

CHARGE: 403(a)—when shipped, the label statements "Instant Chocolate," "Chocolate Soda," and "Chocolate Shake" were false and misleading as applied to an article containing no chocolate; and 403(f)—the words "Flavored Mix" as part of the common or usual name of the article required by 403(i) (1) to appear on the label, were not prominently placed thereon with such conspicuousness (as compared with the words "Instant Chocolate") as to render them likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

DISPOSITION: 3-20-59. Consent—claimed by Robert A. Johnston Co. and relabeled.

CONFECTIONERY

25385. Candy. (F.D.C. No. 42449. S. Nos. 20-000 P, 21-046 P, 22-038/9 P.)

INFORMATION FILED: 3-19-59, W. Dist. Mo., against Dye Candy Co., a corporation, Kansas City, Mo.

SHIPPED: 10-16-58 and 10-22-58, from Missouri to Kansas and Oklahoma.

LABEL IN PART: "WOOLWORTH'S CLUSTERS PURE AND WHOLESOME NET WEIGHT 5 OZ."; "DYE CANDY CO. FRESH CANDY * * * CHOC. TOR-TELS"; "DYE'S PEANUT BRITTLE NET WT. 16 OZ."; and "DYE'S PECO FLAKE NET WT. 12 OZ."

CHARGE: 402(a) (3)—contained insects, insect parts, and insect fragments; and 402(a) (4)—prepared under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 5-1-59. Corporation—fined \$400, plus costs.

25386. Candy. (F.D.C. No. 42783. S. Nos. 44-075/6 P.)

QUANTITY: 23 cases, 24 boxes each, at Allendale, S.C.

SHIPPED: 11-28-58, from Jacksonville, Fla., by Personalized Candies, Inc.

LABEL IN PART: (Box) "Cashew Nut Brittle Community Recreation Drive Sponsored by The Allendale Parents Cooperative Organization & The Allendale Council of Club Women Personalized Candies, Inc., P.O. 8713 Jacksonville 11, Florida * * * Contains Four Bars"; and "Cashew Nut Royale Made Expressly For Community Recreation Drive Sponsored by The Allendale Parents Cooperative Organization & The Allendale Council of Club Women Personalized Candies, Inc., P.O. 8713, Jacksonville 11, Florida * * * Contains 8 Pieces."

LIBELED: 1-13-59, E. Dist. S.C.

CHARGE: 402(a)(3)—contained insects and insect parts; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 2-10-59. Default—destruction.

25387. Candy. (F.D.C. No. 42983. S. No. 53-003 P.)

QUANTITY: 41 ctns., 200 candy bars each, at Los Angeles, Calif.

SHIPPED: 3-17-59, from Brooklyn, N.Y., by Rockwood Chocolate Co., Inc.

LABEL IN PART: (Bar) "Rockwood Pecan Feast With Fruit and Nuts * * * Net Wt. 1¼ Oz. * * * Manufactured By Rockwood Chocolate Co., Inc., Brooklyn 5, New York."

LIBELED: 4-16-59, S. Dist. Calif.

CHARGE: 402(b)(2)—when shipped, peanuts had been substituted in whole or in part for pecans; 403(a)—the label statement "Pecan Feast" was false and misleading; and 403(i)(2)—the article was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each ingredient since peanuts and raisins had not been declared.

DISPOSITION: 5-15-59. Default—delivered to a charitable institution for its use.

SIRUP AND SUGAR

25388. Sorghum sirup. (F.D.C. 42598. S. No. 38-628 P.)

QUANTITY: 18 cases, 12 cans each, at Harrison, Ark.

SHIPPED: 10-4-58, from Joplin, Mo., by Roy Endicott.

LABEL IN PART: (Can) "Honey Creek Brand Sorghum Made For and Sold by Roy Vannoy, Tulsa, Okla * * * 4½ Lbs. Net."

LIBELED: 1-2-59, W. Dist. Ark.

CHARGE: 402(b)(2)—when shipped, invert sugar sirup had been substituted in part for sorghum.

DISPOSITION: 2-13-59. Default—delivered to a charitable institution for use as animal feed.

25389. Corn sugar. (F.D.C. No. 42703. S. No. 20-931 P.)

QUANTITY: 120 100-lb. bags at Lincoln, Nebr., in possession of Star Van & Storage Co.

SHIPPED: 12-5-58, from Keokuk, Iowa.

LIBELED: 2-17-59, Dist. Nebr.

CHARGE: 402(a)(3)—contained rodent urine and rodent hair fragments; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 3-23-59. Default—destruction.

DAIRY PRODUCTS**BUTTER**

25390. Butter. (F.D.C. No. 41123. S. No. 13-829 P.)

QUANTITY: 12 boxes, 64-lbs. each, at Somerville, Mass.

SHIPPED: 9-17-58, from Bemidji, Minn., by David Park Co.

LIBELED: 10-16-58, Dist. Mass.

CHARGE: 402(a)(3)—when shipped, the article contained fly and other insect parts, and was made from filthy cream; and 402(b)(2)—in a portion of the article, a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: 3-9-59. Default—destruction.

CHEESE

25391. Cheese. (F.D.C. No. 42602. S. No. 24-850 P.)

QUANTITY: 180 blocks and 267 horns at Marshfield, Wis.

SHIPPED: 11-11-58, from South Bend, Ind. This was a return shipment.

LABEL IN PART: (Rubber stamp) "Colby Cheese Wisconsin Factory * * *
Raw Milk Wisconsin State Brand."

LIBELED: 1-14-59, W. Dist. Wis.

CHARGE: 402(a)(1)—when shipped, the article contained a poisonous or deleterious substance, namely, positive coagulase staphylococci, which may have rendered the article injurious to health.

DISPOSITION: 5-21-59. Consent—claimed by Harold C. Klessig, Colby, Wis., and converted into fish bait.

25392. Cheese. (F.D.C. No. 42578. S. Nos. 14-589/93 P, 14-595 P.)

QUANTITY: 84 flats, 35 lbs. each, and 10 twins, 70 lbs. each, of cheese; 29 horns, 197 flats, 28 boxes, 52 lbs. each, 121 flats, 35 lbs. each, 60 midgets, 21 lbs. each, 5 twins, and 24 boxes of twins, 69 lbs. each, of colby cheese, at South Bend, Ind.

SHIPPED: Between 7-29-58 and 10-30-58, from Marshfield, Wis., by Stanz Cheese Co., Inc.

LIBELED: 12-18-58, N. Dist. Ind.

CHARGE: 402(a)(1)—when shipped, the articles contained an added poisonous or deleterious substance, namely, positive coagulase staphylococci, which may have rendered the articles injurious to health.

DISPOSITION: 3-23-59. Default—destruction.

25393. Cheese. (F.D.C. No. 42577. S. Nos. 14-585/7 P, 14-594 P, 14-596 P.)

QUANTITY: 39 lbs. of longhorn cheese in block form; 13 ctns., 503 lbs. total, 4 ctns., 503 lbs. total, and 2 ctns., 512 lbs. total, of colby cheese; 71 lbs. of longhorn cheese cut and wrapped in cellophane; 40 daisies, 22 lbs. each, and 90 blocks and 40 daisies of colby cheese, at South Bend, Ind.

SHIPPED: Between 9-15-58 and 10-16-58, from Colby, Wis., by H. C. Klessig.

LIBELED: 12-18-58, N. Dist. Ind.

CHARGE: 402(a)(1)—when shipped, the articles contained an added poisonous or deleterious substance, namely, positive coagulase staphylococci, which may have rendered the articles injurious to health.

DISPOSITION: 3-23-59. Default—destruction.

EGGS

25394. Frozen eggs. (F.D.C. No. 42904. S. No. 58-261/2 P.)

QUANTITY: 1,333 30-lb. cans at Rock Tavern, N.Y., in possession of Raymond Packing Co.

SHIPPED: From outside the State of New York.

LABEL IN PART: (Can) "30 Lbs. Net. Packed for L. Rudolph Co. Inc., New York, N.Y."

RESULTS OF INVESTIGATION: The article in the cans was prepared and packed from incubator reject shell eggs received from various hatcheries outside the State of New York.

LIBELED: 3-23-59, S. Dist., N.Y.

CHARGE: 402(a)(3)—when shipped and while held for sale, contained a decomposed substance; and 402(a)(4)—prepared, packed, and held under insanitary conditions.

DISPOSITION: 4-8-59. Default—destruction.

25395. Frozen eggs. (F.D.C. No. 42855. S. No. 32-209 P.)

QUANTITY: 220 cans at New York, N.Y.

SHIPPED: 2-6-59, from Detroit, Mich., by Frigid Food Products, Inc.

LABEL IN PART: "Frigid Food Products, Inc. * * * Frigidegs Frozen Egg Products Whole Eggs 30 Lbs. Net."

LIBELED: 3-11-59, S. Dist. N.Y.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 4-10-59. Consent—claimed by Frigid Food Products, Inc. Segregated; 31 cans destroyed.

25396. Frozen eggs. (F.D.C. No. 42871. S. No. 44-698 P.)

QUANTITY: 155 cans at Atlanta, Ga.

SHIPPED: 2-5-59, from Nashville, Tenn., by Modern Egg Products, Inc.

LABEL IN PART: "Superior Brand Whole Egg Net Wt. 30 Lbs. Distributed by Superior Egg, Inc., Atlanta, Georgia."

LIBELED: 3-4-59, N. Dist. Ga.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 4-10-59. Default—destruction.

25397. Frozen eggs. (F.D.C. No. 42865. S. No. 35-256 P.)

QUANTITY: 389 30-lb. cans at Toms River, N.J.

SHIPPED: The article was shipped in the form of shell eggs, during December 1958, from New York, N.Y.

LIBELED: 3-5-59, Dist. N.J.

CHARGE: 402(a)(3)—contained decomposed eggs while held for sale.

DISPOSITION: 4-14-59. Default—destruction.

25398. Frozen eggs. (F.D.C. No. 42898. S. No. 35-438 P.)

QUANTITY: 169 cans at Philadelphia, Pa.

SHIPPED: 1-29-59, from Kansas City, Mo., by Monark Egg Corp.

LABEL IN PART: "Whole Eggs Frozen 30 Lbs. Net Wt. Modern Egg Prod. Inc., Nashville, Tenn."

LIBELED: 3-20-59, E. Dist. Pa.

CHARGE: 402(a) (3)—contained decomposed eggs when shipped.

DISPOSITION: 5-5-59. Default—destruction.

FISH AND SHELLFISH

25399. Frozen dressed whitefish (2 seizure actions). (F.D.C. No. 42607. S. No. 11-738 P.)

QUANTITY: 41 boxes at Detroit, Mich.

SHIPPED: 12-20-58, from Winnipeg, Canada, by Canadian Fish Producers, Ltd.

LABEL IN PART: "60 Lbs. Net DSD. Medium [or "Large"] Whites Reindeer Lake, Man."

LIBELED: 1-9-59 and 1-14-59, E. Dist. Mich.

CHARGE: 402(a) (3)—contained parasitic cysts when shipped.

DISPOSITION: 2-9-59. Consent—claimed by Salasnek Fisheries, Inc., Detroit, Mich., and exported to original foreign supplier.

25400. Frozen dressed whitefish (2 seizure actions). (F.D.C. Nos. 42667, 42694. S. Nos. 11-740 P, 11-751 P.)

QUANTITY: 57 60-lb. boxes at Detroit, Mich.

SHIPPED: 1-9-59 and 1-26-59, from Winnipeg, Canada, by Canadian Fish Producers, Ltd.

LABEL IN PART: "Canadian Fish Producers, Ltd. Winnipeg, Man. 60 Med. Dr. Whites Molson Lake Manitoba." and "Product of Canada Canadian Fish Producers Ltd. Winnipeg, Man. 60 Lge. Dr. Whites Gods Lake Man."

LIBELED: 1-23-59 and 2-16-59, E. Dist. Mich.

CHARGE: 402(a) (3)—contained parasitic cysts when shipped.

DISPOSITION: 3-13-59 and 4-13-59. Consent—claimed by Salasnek Fisheries, Inc., Detroit, Mich., and exported to original foreign shipper in lieu of destruction.

25401. Frozen dressed whitefish. (F.D.C. No. 42820. S. Nos. 47-029/31 P.)

QUANTITY: 85 60-lb. boxes and 1 42-lb. box at Chicago, Ill.

SHIPPED: 1-24-59, from Winnipeg, Canada, by Canadian Fish Producers, Ltd.

LABEL IN PART: "Canadian Fish Producers Ltd. Lakefood Brand Manitoba Packer 140 Contents 60 Med Dr Whites," "Canadian Fish Producers Ltd. Winnipeg Man. Molson Lake 60 Lge Dr Whites," and "Canadian Fish Producers Ltd. Winnipeg, Man. Bigstone Lake Manitoba 60 Med. Dr. Whites."

LIBELED: 2-5-59, N. Dist. Ill.

CHARGE: 402(a) (3)—contained parasitic cysts when shipped.

DISPOSITION: 3-6-59. Consent—claimed by Pick-Shapiro Fisheries, Inc., Chicago, Ill., and returned to shipper in Canada.

25402. Fish fillets. (F.D.C. No. 42743. S. No. 8-104 P.)

QUANTITY: 180 ctns., 10 5-lb. boxes each, and 4 5-lb. boxes, at New Bedford, Mass.

SHIPPED: These fillets were from fish caught in the waters of the Atlantic Ocean outside the limits of Massachusetts and unloaded at New Bedford, Mass., on November 11, 1958.

LABEL IN PART: (Insert label) "A One Brand Quick Frozen Sole Fillets
To be weighed at time of sale Packed by Aiello Fish New Bedford, Mass."

LIBELED: 12-23-58, Dist. Mass.

CHARGE: 402(b) (2)—while held for sale, yellowtail flounder fillets had been substituted for sole fillets, which the article was represented to be; 403(a)—the label statement "Sole Fillets" was false and misleading; and 403(b)—yellowtail flounder fillets were offered for sale under the name of another food, sole fillets.

DISPOSITION: 1-19-59. Consent—claimed by Aiello Brothers, Inc., New Bedford, Mass., and relabeled.

25403. Frozen shrimp. (F.D.C. No. 42778. S. No. 12-536 P.)

QUANTITY: 115 50-lb. cases at Chicago, Ill.

SHIPPED: 6-14-58 and 6-23-58, from Panama, S.A., and New York, N.Y.

LIBELED: 1-8-59, N. Dist. Ill.

CHARGE: 402(a) (3)—contained decomposed shrimp while held for sale.

DISPOSITION: 2-10-59. Default—destruction.

25404. Frozen breaded shrimp. (F.D.C. No. 42623. S. No. 26-787 P.)

QUANTITY: 13 cases, 24 pkgs. each, at Minneapolis, Minn.

SHIPPED: 9-27-58 and 10-2-58, from St. Simons Island, Ga.

LIBELED: 12-5-58, Dist. Minn.

CHARGE: 402(a) (3)—contained decomposed shrimp while held for sale.

DISPOSITION: 1-20-59. Default—consumption by animals.

FRUITS AND VEGETABLES

CANNED FRUIT

25405. Canned peaches (2 seizure actions). (F.D.C. Nos. 42581, 42749. S. Nos. 3-237 P, 44-130 P.)

QUANTITY: 127 cases, 24 1-lb. 13-oz. cans each, at Jacksonville, Fla.

SHIPPED: On an unknown date, and between 9-6-58 and 10-21-58, from Haddock, Ga.

LIBELED: 12-19-58 and 12-23-58, S. Dist. Fla.

CHARGE: 402(a) (3)—contained a decomposed substance while held for sale.

DISPOSITION: 1-28-59. Consent—claimed by Cherokee Products Co., Haddock, Ga. Segregated; 152 cans destroyed.

25406. Canned pineapple. (F.D.C. Nos. 42590 and 42591. S. Nos. 55-474/5 P.)

QUANTITY: 63 cases, 48 cans each, at Ottawa, Kans., and 299 cases, 48 cans each, at Kansas City, Kans.

SHIPPED: 10-29-58 and 11-3-58, from Kansas City, Mo.

LIBELED: 1-5-59, Dist. Kans.

CHARGE: 402(a) (3)—contained a decomposed substance while held for sale.

DISPOSITION: 2-13-59. Default—destruction.

25407. Canned cranberry sauce. (F.D.C. No. 42683. S. No. 44-682 P.)

QUANTITY: 132 cases, 24 1-lb. cans each, at Columbus, Ga.

SHIPPED: 8-21-57, from Hanson, Mass.

RESULTS OF INVESTIGATION: Examination showed that the article was undergoing chemical decomposition.

LIBELED: 2-4-59, M. Dist. Ga.

CHARGE: 402(a) (3)—contained a decomposed substance while held for sale.

DISPOSITION: 3-5-59. Default—destruction.

25408. Canned fruit pie filling. (F.D.C. No. 42905. S. Nos. 10-749/51 P.)

QUANTITY: 37 cases, 24 1-lb. 6-oz. cans each, of raisin pie filling, 94 cases, 12 1-lb. 5-oz. cans each, and 26 cases, 24 1-lb. 5-oz. cans each, of french apple pie filling, at Utica, N.Y.

SHIPPED: 4-20-56, from Duluth, Minn.

LIBELED: 3-30-59, N. Dist. N.Y.

CHARGE: 402(a) (3)—contained a decomposed substance while held for sale.

DISPOSITION: 5-5-59. Default—destruction.

DRIED FRUIT AND FRUIT PRODUCT

25409. Dried apples. (F.D.C. No. 42680. S. Nos. 49-893/4 P.)

QUANTITY: 70 ctns. at Cincinnati, Ohio.

SHIPPED: 12-1-58, from Del Rey, Calif., by Enoch Packing Co.

LABEL IN PART: "50 Lbs. Net When Packed Airport Brand * * * Dried Apples Packed For Enoch Packing Co., Del Rey, Calif."

LIBELED: 2-3-59, S. Dist. Ohio.

CHARGE: 402(a) (3)—contained insects, insect parts, insect frass, insect-damaged fruit, and moldy fruit when shipped.

DISPOSITION: 3-13-59. Default—delivered to a public institution, for use as animal feed and not for sale.

25410. Dried apples. (F.D.C. No. 42712. S. No. 15-842 P.)

QUANTITY: 150 ctns. at Cincinnati, Ohio.

SHIPPED: 1-15-59, from Del Rey, Calif., by Enoch Packing Co.

LABEL IN PART: "50 Lbs. Net When Packed Airport Brand * * * Dried Apples Packed For Enoch Packing Co., Del Rey, Calif."

LIBELED: 2-24-59, S. Dist. Ohio.

CHARGE: 402(a) (3)—contained insect parts and insect excreta; and 402(a) (4)—prepared and packed under insanitary conditions.

DISPOSITION: 4-10-59. Default—consumption by animals.

25411. Dried figs. (F.D.C. No. 42934. S. Nos. 42-326/7 P.)

QUANTITY: 14 cases, 24 1-lb. pkgs. each, and 19 cases, 24 12-oz. bags each, at Seattle, Wash.

SHIPPED: 2-23-59, from Fresno, Calif., by Bonner Packing Co.

LABEL IN PART: (Pkg.) "Sugaripe Pyramid Dried Calimyrna Figs * * * Sugaripe Raisin & Fig. Co., Fresno, Calif. Pulled Calimyrna Figs," and (bag) "Sugaripe Calimyrna Figs."

LIBELED: 4-13-59, W. Dist. Wash.

CHARGE: 402(a) (3)—contained insects and moldy figs when shipped.

DISPOSITION: 5-25-59. Default—destruction.

25412. Dates. (F.D.C. No. 42790. S. No. 47-420 P.)

QUANTITY: 50 70-lb. boxes at Cambridge, Mass.

SHIPPED: 11-14-58, from New York, N.Y.

LIBELED: 1-14-59, Dist. Mass.

CHARGE: 402(a) (3)—contained insects while held for sale.

DISPOSITION: 3-9-59. Default—destruction.

25413. Dried apple pomace. (F.D.C. No. 42745. S. Nos. 47-294/6 P.)

QUANTITY: 41 55-lb. bags and 250 75-lb. bags at Malden, Mass., in possession of A. A. Knights & Son Corp.

SHIPPED: 8-26-58 and 10-24-58, from Beglerville, Pa.

LIBELED: 12-23-58, Dist. Mass.

CHARGE: 402(a) (3)—contained rodent hair fragments; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 2-16-59. Default—destruction.

MISCELLANEOUS FRUIT PRODUCTS

25414. Cider, vinegar, and an acidulated mixture of water and limejuice. (Inj. No. 330.)

COMPLAINT FOR INJUNCTION FILED: 2-27-58, Dist. N.H., against Harold M. Richardson, t/a Richardson Vinegar Works, and against Lime Products, Inc., Derry, N.H.

CHARGE: The complaint alleged that the defendants were operating a plant for the preparation, storage, and distribution of cider, vinegar, and an acidulated mixture of water and limejuice, and that the defendants had been and were introducing and causing to be introduced into interstate commerce, such articles which were adulterated within the meaning of 402(a) (3) and (4) by reason of contamination of the articles with insects, insect fragments, insect eggs, mites, and maggots; the use of wormy apples in the preparation of the cider and vinegar; the presence of vinegar eels in the vinegar; the use of rotten apples in the preparation of the cider and vinegar; and by reason of the articles being prepared, packed, and held under insanitary conditions at the defendants' plant at Derry.

It was alleged that the insanitary conditions resulted from and consisted of the presence of large numbers of rotten and wormy apples in the stock of apples held in storage bins; deposits of vegetable debris (leaves, grass, stems and pieces of apples, and apple pulp) on the conveyor belt carrying the apples from the storage bins to the grinder and over the open bin leading to the grinder; hundreds of fruit flies on the apples in the open bin leading to the grinder and on the frame work of the hydraulic press used to squeeze the juice from the ground apples; insects, including fruit flies, insect fragments, insect eggs, mites, and maggots on the inside walls of the storage tanks of the articles; vinegar eels in the vinegar in the storage tanks; apple pomace stacked just outside the plant and attracting hundreds of fruit and house flies; and unscreened windows and doors throughout the plant.

It was alleged also that the acidulated mixture of water and limejuice was misbranded within the meaning of 403(a), in that the label statement "Lime Fruit Juice" was false and misleading as applied to a mixture consisting of water, limejuice, benzoate of soda, and citric acid; and 403(i) (2), in that the label of the mixture failed to bear the common or usual name

of each ingredient, since the label failed to declare the presence of citric acid.

It was alleged further that on January 13, 1958, the defendants had on hand stocks of the articles which in the ordinary course of business would be shipped in interstate commerce, and that such stocks constituted a menace to interstate commerce because of contamination with filth.

The complaint alleged further that the defendants were well aware that their activities violated the Act; that various inspections had been made by the Food and Drug Administration at which times the insanitary conditions in the plant were called to the attention of the defendants; and that despite such warnings, the defendants failed to correct the insanitary conditions in the plant and continued to introduce into interstate commerce, the articles which were adulterated and misbranded as specified above.

DISPOSITION: On 5-7-58, the defendants having consented, the court entered a decree permanently enjoining and restraining the defendants from introducing into interstate commerce, cider or vinegar which was adulterated within the meaning of 402(a) (3) and (4) as alleged in the complaint, or any acidulated mixture of water and limejuice which was adulterated within the meaning of 402(a) (3) and (4), or misbranded within the meaning of 403(a) and 403(i) (2) as alleged in the complaint. The order also enjoined defendants against introducing into interstate commerce, any of the stocks of the articles which were on hand at the defendants' plant on 1-13-58, unless and until such stocks were processed or disposed of, and the conditions at the defendants' plant were corrected and brought into compliance with the Act in accordance with the following provisions:

(a) that all sweet cider be analyzed by the Food and Drug Administration and its disposition determined on the basis of the results of the analyses; (b) that the middle layer of vinegar in each tank be layered off and filtered before bottling and sale; (c) that the bottom and top layers of vinegar in each tank be destroyed; (d) that the tanks and vats in defendants' plant be reconditioned and cleaned under supervision of the Food and Drug Administration; that repairs and improvements be made to the plant and its equipment to insure that they be kept free from filth and debris; that defendants dispose of all citric acid on hand; and that all "Princess Ann West India Lime Fruit Juice" labels be destroyed or brought into compliance with the Act.

25415. Orange juice. (F.D.C. No. 42789. S. No. 2-830 P.)

QUANTITY: 280 cases, 12 1-qt. ctns. each, at Atlanta, Ga.

SHIPPED: 9-23-58, from Clermont, Fla.

LIBELED: 1-14-59, N. Dist. Ga.

CHARGE: 402(b) (2)—while held for sale, water had been substituted in part for orange juice; 402(b) (4)—water had been added to orange juice or mixed or packed with it so as to increase its bulk and reduce its quality; and 403(a)—the vignette depicting oranges dripping juice into a Redi-Maid carton, and the label statement "A superior blend of Florida orange juice and reconstituted orange juice with sucrose added" were false and misleading since they represented and suggested that the article was orange juice, sweetened; whereas, it was diluted orange juice, sweetened.

DISPOSITION: 2-18-59. Default—delivered to a public institution for its use and not for sale.

25416. Grapejuice. (F.D.C. No. 42608. S. Nos. 37-095 P, 54-286 P.)

QUANTITY: 106 cases, 12 btls. each, at St. Louis, Mo.

SHIPPED: 11-26-58 and 12-10-58, from Chicago, Ill., by W. O. Sommers, Inc.

LABEL IN PART: (Btl.) "24 Ounces So-Li-Cious Pure Concord Grape Juice
No Sugar Added Packed By W. O. Sommers, Inc., Chicago 39, Ill."

LIBELED: 1-9-59, E. Dist. Mo.

CHARGE: 402(a)(3)—contained fruit flies and fly eggs when shipped.

DISPOSITION: 2-3-59. Default—destruction.

VEGETABLES AND VEGETABLE PRODUCTS*

25417. Fresh spinach. (F.D.C. No. 41305. S. Nos. 79-105/6 M.)

QUANTITY: 1,130 bushel baskets at New York, N.Y.

SHIPPED: 12-13-57, from Crystal City, Tex., by Warren Wagner Shed.

LIBELED: 12-30-57, S. Dist. N.Y.

CHARGE: 402(a)(2)—when shipped, the article was a raw agricultural commodity and it contained a pesticide chemical, namely, DDT, which is unsafe within the meaning of 408 since the quantity of pesticide chemical on the article exceeded the limits of the tolerance prescribed by regulations.

DISPOSITION: 1-14-58. Default—destruction.

25418. Dried pinto beans. (F.D.C. No. 42618. S. No. 36-676 P.)

QUANTITY: 47 ctns., 12 2-lb. bags each, and 12 ctns., 12 5-lb. bags each, at Helena, Ark., in possession of Feldman Commission Co., Inc.

SHIPPED: 4-16-58 and 6-14-58, from Gering, Nebr.

LIBELED: 12-15-58, E. Dist. Ark.

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 2-5-59. Default—delivered to a public institution, for use as animal feed only.

25419. Dried lima beans. (F.D.C. No. 42670. S. No. 10-210 P.)

QUANTITY: 127 100-lb. bags at Oakfield, N.Y., in possession of Haxton Foods, Inc.

SHIPPED: 3-6-57, from Crows Landing, Calif.

LIBELED: 1-26-59, W. Dist. N.Y.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 3-2-59. Consent—claimed by Haxton Foods, Inc., and cleaned by washing.

25420. Dried lima beans. (F.D.C. No. 42579. S. No. 3-240 P.)

QUANTITY: 6 100-lb. bags at Jacksonville, Fla., in possession of Daylight Grocery Co.

SHIPPED: 7-28-58, from Irvine, Calif.

LIBELED: 12-18-58, S. Dist. Fla.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 1-9-59. Default—destruction.

*See also Nos. 25361, 25364, 25370, 25372.

25421. Canned cut green beans. (F.D.C. No. 42593. S. No. 25-983 P.)

QUANTITY: 149 cases, 24 cans each, at Dubuque, Iowa.

SHIPPED: 8-16-58, from Wisconsin Rapids, Wis., by Sampson Canning Co.

LABEL IN PART: (Can) "Contents 15½ Oz. * * * Sampson's Cut Green Beans * * * Packed By Sampson Canning Co., Wisconsin Rapids, Wis."

LIBELED: On or about 1-2-59, N. Dist. Iowa.

CHARGE: 403(h)(1)—when shipped, the quality of the article fell below the standard of quality for canned cut green beans since the deseeded pods of the article contained more than 0.15 percent by weight of fibrous material, and the label of the article failed to bear, as specified by the regulations, a statement that it fell below such standard.

DISPOSITION: 2-2-59. Default—delivered to a charitable institution, for consumption only.

25422. Canned cut green beans. (F.D.C. No. 42673. S. No. 26-396 P.)

QUANTITY: 155 cases, 24 cans each, at Albert Lea, Minn.

SHIPPED: 8-14-58, from Wisconsin Rapids, Wis., by Sampson Canning Co.

LABEL IN PART: (Can) "Mayflower Cut Green Beans Contents 15½ Oz. * * * Distributed by Consolidated Food Processors, Inc. Marshall Canning Division, Hampton, Iowa, Sugar Land, Texas."

LIBELED: 1-27-59, Dist. Minn.

CHARGE: 403(h)(1)—the quality of the article fell below the standard of quality for canned cut green beans, when shipped, since the deseeded pods of the article contained more than 0.15 percent by weight of fibrous material, and its label did not bear, as specified by the regulations, a statement that it fell below such standard.

DISPOSITION: 3-17-59. The Sampson Canning Co., claimant, having consented to the entry of the decree, judgment of condemnation was entered and the product was ordered delivered to the claimant under bond on condition that the cans coded "U" be segregated from the cans coded "EX"; that the cans coded "U" be released to the claimant; and that the cans coded "EX", in lieu of being relabeled as substandard, be turned over to charitable institutions for their use and not for sale.

25423. Dried black-eyed peas. (F.D.C. No. 42662. S. No. 38-680 P.)

QUANTITY: 8 25-lb. bags, 15 bales, 12 2-lb. bags each, 28 bales, 24 1-lb. bags each, and 7 1-lb. bags, at Helena, Ark.

SHIPPED: 10-20-58, from Dallas, Tex.

LIBELED: 1-26-59, E. Dist. Ark.

CHARGE: 402(a)(3)—contained insects, insect excreta, and insect-damaged peas while held for sale.

DISPOSITION: 3-27-59. Default—delivered to a public institution, for use as animal feed.

25424. Dried black-eyed peas. (F.D.C. No. 42675. S. Nos. 922 P, 44-335 P.)

QUANTITY: 154 bales, 24 1-lb. bags each, and 45 bales, 12 2-lb. bags each, at Albany, Ga.

SHIPPED: 1-2-59, from Mobile, Ala., by W. M. Meador & Co.

LABEL IN PART: (Bag) "Big Bill Black Eye Peas Packed by W. M. Meador & Co., Mobile, Alabama."

LIBELED: 1-30-59, M. Dist. Ga.

CHARGE: 402(a)(3)—contained insect-damaged peas when shipped.

DISPOSITION: 3-5-59. Default—destruction.

25425. Dried chickpeas and green coffee beans. (F.D.C. No. 42807. S. Nos. 57-845/7 P, 57-850/55 P, 57-857/9 P.)

QUANTITY: 2,700 110-lb. bags of chickpeas and 616 100-lb. bags of green coffee beans at Brooklyn, N.Y., in possession of Greenpoint Terminal Warehouse, Inc.

SHIPPED: The chickpeas were shipped from Mexico, on an unknown date, and the green coffee beans were shipped from Brazil, on 11-13-58 and 11-17-58.

LIBELED: 2-2-59, E. Dist. N.Y.

CHARGE: 402(a)(3)—(chickpeas) contained rodent urine and rodent excreta pellets, and (green coffee beans) moldy beans, insect-damaged beans, and wormy beans; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: Chickpeas, 2-19-59. Consent—claimed by Uddo & Taormina Corp., Brooklyn, N.Y. Segregated; 84 bags destroyed.

Green coffee beans, 2-19-59 and 3-2-59. Consent—50 bags claimed by Poons Co., Inc., New York, N.Y., and remainder of the article claimed by Schwabach & Co., New York, N.Y. Segregated; 951 lbs. destroyed.

25426. Olives in brine. (F.D.C. No. 42597. S. No. 49-889 P.)

QUANTITY: 6 95-lb. kegs at Cleveland, Ohio, in possession of Gust Gallucci Co.

SHIPPED: 2-18-58, from Corning, Calif.

LIBELED: 1-6-59, N. Dist. Ohio.

CHARGE: 402(a)(3)—contained insects and decomposed olives; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 2-9-59. Default—destruction.

25427. Red sweet peppers (2 seizure actions). (F.D.C. Nos. 42564 and 42565. S. Nos. 8-149/50 P.)

QUANTITY: 69 cases, 4 jars each, at Springfield, Mass.

SHIPPED: 10-4-58, from Bridgeville, Del., by H. P. Cannon & Son, Inc.

LABEL IN PART: (Jar) "Cannon Brand Red Sweet Peppers * * * Contents One Gallon Distributed by H. P. Cannon & Sons, Inc., Bridgeville, Del." or "Sweet Life * * * Red Sweet Peppers * * * Contents 1 Gal. Distributed by Sweet Life Brands, Inc., Brooklyn, N.Y."

LIBELED: 12-12-58, Dist. Mass.

CHARGE: 402(a)(3)—contained vinegar flies, fly parts, fly eggs, and maggots when shipped.

DISPOSITION: 2-16-59. Default—destruction.

25428. Sweet pickles. (F.D.C. No. 42617. S. No. 10-134 P.)

QUANTITY: 23 bbls., 7,850 bu. total, at Webster, N.Y., in possession of J. B. LeFrois & Sons.

SHIPPED: 5-1-58, from Lakeview, Mich.

LIBELED: 12-3-58, W. Dist. N.Y.

CHARGE: 402(a)(3)—contained flies, fly larvae, and fly eggs; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 1-12-59. Consent—claimed by J. B. LeFrois & Sons, and reconditioned by washing and repacking into clean barrels.

TOMATOES AND TOMATO PRODUCTS

25429. Canned tomatoes. (F.D.C. No. 42851. S. No. 47-380 P.)

QUANTITY: 11,654 cases, 24 1-lb. cans each, at Lawrence, Mass.

SHIPPED: Between 12-27-58 and 1-8-59, from Sanford, Va., by Bayside Canning Co.

LABEL IN PART: (Can) "Phillips Tomatoes * * * Packed by Coastal Foods Co. Cambridge, Md."

LIBELED: 2-20-59, Dist. Mass.

CHARGE: 402(a)(3)—contained fly eggs and maggots; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 3-24-59. Consent—claimed by Triangle Sales Corp., Lynn, Mass. Segregated; 8,144 cases destroyed.

25430. Canned tomatoes. (F.D.C. No. 42325. S. No. 11-726 P.)

QUANTITY: 1,996 cases, 24 cans each, at Detroit, Mich.

SHIPPED: 9-5-58, from Parksley, Va., by Coastal Foods Co.

LABEL IN PART: (Can) "Phillips Tomatoes * * * Contents 1 Lb. * * * Packed by Coastal Foods Co., Division of Consolidated Foods Corporation, Cambridge, Md."

LIBELED: 10-15-58, E. Dist. Mich.

CHARGE: 402(a)(3)—contained fly eggs and maggots; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 6-12-59. Default—destruction.

25431. Tomato catsup. (F.D.C. No. 42682. S. No. 10-347 P.)

QUANTITY: 428 cases, 6 cans each, at McKeesport, Pa.

SHIPPED: 12-29-58, from Wilson, N.Y., by Wilson Canning Co.

LABEL IN PART: (Can) "Ponco Tomato Catsup * * * Contents 7 Lbs. 3 Oz. * * * Distributed By Potter McCune Co. McKeesport, Pa."

LIBELED: 2-3-59, W. Dist. Pa.

CHARGE: 402(a)(3)—contained decomposed tomato material when shipped.

DISPOSITION: 3-11-59. Default—destruction.

25432. Tomato puree. (F.D.C. No. 42699. S. No. 10-218 P.)

QUANTITY: 133 cases, 6 cans each, at Pittsburgh, Pa.

SHIPPED: 12-11-58, from Wilson, N.Y., by Wilson Canning Co.

LABEL IN PART: (Can) "Behrhorst * * * Extra Heavy Tomato Puree * * * Contents 6 Lb. 14 Oz. Packed For H. F. Behrhorst & Son, Inc., Pittsburgh, Pa."

LIBELED: 2-12-59, W. Dist. Pa.

CHARGE: 402(a)(3)—contained decomposed tomato material when shipped.

DISPOSITION: 3-11-59. Default—destruction.

25433. Pizza sauce. (F.D.C. No. 42702. S. No. 29-007 P.)

QUANTITY: 371 cases, 24 cans each, at New Orleans, La.

SHIPPED: 10-2-58, from Vineland, N.J., by Uddo & Taormina Co.

LABEL IN PART: (Can) "Progresso Redi-Mixed Pizza Sauce * * * Contents 6½. Avoir * * * Packed by Uddo & Taormina Co. Vineland, New Jersey."

LIBELED: 2-16-59, E. Dist. La.

CHARGE: 402(a)(3)—contained fly eggs and maggots when shipped.

DISPOSITION: 3-24-59. Default—destruction.

NUTS AND NUT PRODUCTS

25434. Unshelled English walnuts. (F.D.C. No. 42580. S. No. 36-080 P.)

QUANTITY: 86 100-lb. bags at Philadelphia, Pa.

SHIPPED: 12-2-58, from New York, N.Y.

LIBELED: 12-30-58, E. Dist. Pa.

CHARGE: 402(a)(3)—contained insect-damaged nuts and moldy and rancid nuts while held for sale.

DISPOSITION: 1-29-59. Consent—claimed by Eugene Fruit Growers Association, Eugene, Oreg. Segregated; 259.5 lbs. destroyed.

25435. Unshelled almonds. (F.D.C. No. 42640. S. No. 38-575 P.)

QUANTITY: 32 cases, 24 1-lb. bags each, at St. Louis, Mo.

SHIPPED: 10-29-58, from Chico, Calif.

LIBELED: 12-16-58, E. Dist. Mo.

CHARGE: 402(a)(3)—contained insects, moldy nuts, and empty shells while held for sale.

DISPOSITION: 1-21-59. Default—destruction.

25436. Unshelled brazil nuts. (F.D.C. 42563. S. No. 14-599 P.)

QUANTITY: 95 cases, 12 2-lb. bags each, at Chicago, Ill.

SHIPPED: 10-21-58, from Chicago, Ill., to Toledo, Ohio, by Robert L. Berner Co., and from there returned to Chicago.

LABEL IN PART: (Bag) "Holiday Brand Extra Fancy Nuts * * * Packed by Robert L. Berner Co., Chicago, Ill."

LIBELED: 12-11-58, N. Dist. Ill.

CHARGE: 402(a)(3)—contained moldy nuts when shipped.

DISPOSITION: 1-8-59. Consent—claimed by Robert L. Berner Co. Segregation proved to be unsuccessful, and the nuts were subsequently destroyed.

25437. Unshelled brazil nuts. (F.D.C. No. 42549. S. No. 44-062 P.)

QUANTITY: 45 ctns., 24 boxes each, at Atlanta, Ga.

SHIPPED: 11-17-58, from New York, N.Y., by J. F. Braun & Sons.

LABEL IN PART: (Box) "HAP-PEE Time Brazil Nuts Product of Brazil 1 lb. Net Wt. Packed by J. F. Braun & Sons, New York, N.Y."

LIBELED: 12-4-58, N. Dist. Ga.

CHARGE: 402(a)(3)—contained insects and decomposed nuts when shipped.

DISPOSITION: 1-7-59. Consent—claimed by J. F. Braun & Sons. Segregated; 148 lbs. destroyed.

25438. Unshelled brazil nuts. (F.D.C. No. 42575. S. Nos. 3-051/2 P.)

QUANTITY: 44 cases, 24 1-lb. bags each, and 18 ctns., 24 1-lb. boxes each, at Atlanta, Ga.

SHIPPED: 11-17-58 and 11-19-58, from Jersey City, N.J.

LIBELED: 12-15-58, N. Dist. Ga.

CHARGE: 402(a)(3)—contained decomposed nuts while held for sale.

DISPOSITION: 1-7-59. Consent—claimed by J. F. Braun & Sons, New York, N.Y. Segregated; 328 lbs. destroyed.

25439. Unshelled brazil nuts. (F.D.C. No. 42654. S. No. 13-242 P.)

QUANTITY: 80 cases, 24 1-lb. boxes each, at Appleton, Wis.

SHIPPED: 10-28-58, from Chicago, Ill.

LIBELED: 1-9-59, E. Dist. Wis.

CHARGE: 402(a)(3)—contained moldy and decomposed nuts while held for sale.

DISPOSITION: 1-16-59. Consent—claimed by Robert L. Berner Co., Chicago, Ill. Segregation proved to be unsuccessful, and the article was subsequently destroyed.

25440. Unshelled pecans. (F.D.C. No. 42641. S. No. 38-670 P.)

QUANTITY: 22 60-lb. bags at Memphis, Tenn.

SHIPPED: 11-20-58, from Little Rock, Ark., by R. L. Wisdom.

LIBELED: 12-12-58, W. Dist. Tenn.

CHARGE: 402(a)(3)—contained moldy nuts, shriveled nuts, and empty shells when shipped.

DISPOSITION: 1-16-59. Default—destruction.

25441. Shelled peanuts. (F.D.C. No. 42633. S. No. 22-233 P.)

QUANTITY: 200 bags at Lincoln, Nebr.

SHIPPED: 11-20-58, from Hartford, Ala., by Hartford Peanut Co.

LABEL IN PART: (Tag) "Hartford Peanut Co. R-2 & Pee Wees 120 Lb. Gross."

LIBELED: 12-9-58, Dist. Nebr.

CHARGE: 402(a)(3)—contained insects and rodent excreta; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 1-9-59. Default—delivered to public institutions for use as animal feed.

25442. Unshelled mixed nuts. (F.D.C. No. 42648. S. No. 27-621 P.)

QUANTITY: 33 cases, 24 1-lb. bags each, at Des Moines, Iowa.

SHIPPED: 11-5-58, from Chicago, Ill.

LIBELED: 12-15-58, S. Dist. Iowa.

CHARGE: 402(a)(3)—contained insects, moldy nuts, shriveled nuts, and empty shells while held for sale.

DISPOSITION: 1-16-59. Consent—claimed by Robert L. Berner Co., Chicago, Ill. Segregated; 380 lbs. destroyed.

25443. Coconut. (F.D.C. No. 42586. S. No. 35-781 P.)

QUANTITY: 10 100-lb. bags at Catasauqua, Pa., in possession of W. J. Smith & Co.

SHIPPED: From the Philippine Islands.

LIBELED: 12-23-58, E. Dist. Pa.

CHARGE: 402(a)(3)—contained insects, rodent urine, and rodent excreta; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 1-26-59: Default—destruction.

25444. Peanut butter. (F.D.C. No. 42456. S. Nos. 39-387/8 P.)

INFORMATION FILED: 1-27-59, N. Dist. Calif., against Phillips Products Corp., t/a Puritan Preserve Co., San Francisco, Calif., and John S. Phillips, president.

ALLEGED VIOLATION: On 2-11-55, the defendant gave to a firm engaged in the business of shipping foods in interstate commerce, a guaranty to the effect that all food products shipped or delivered by the defendant to the holder of the guaranty would be neither adulterated nor misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act.

On 2-27-58 and 3-3-58, the defendants caused to be delivered to the holder of the guaranty, at San Francisco, Calif., a number of jars of peanut butter which was adulterated.

CHARGE: 402(a)(4)—prepared and packed under insanitary conditions.

PLEA: Nolo contendere—by the corporation to both counts of the information, and by the individual to the count involving the delivery made on 2-27-58.

DISPOSITION: 5-20-59. Corporation—\$500 fine; Individual—probation for 6 months.

OILS AND FATS

25445. Table and cooking oil. (F.D.C. No. 42758. S. No. 47-604 P.)

QUANTITY: 161 cases, 6 1-gal. cans each, 59 cases, 12 ½-gal. cans each, and 12 cases, 24 1-qt. cans each, at Boston, Mass., in possession of East Coast Enterprises, Inc.

SHIPPED: The ingredients of the article were shipped from outside the State of Massachusetts.

LABEL IN PART: "Virginia Brand Fine Oil This can contains High Grade Domestic Vegetable Oil - Pure Olive Oil * * * Distributed by Genoa Packing Co., Cambridge, Mass."

RESULTS OF INVESTIGATION: Examination showed that the article was composed of cottonseed oil with little or no olive oil.

LIBELED: 1-5-59, Dist. Mass.

CHARGE: 402(b)(1)—while held for sale, a valuable constituent, olive oil, had been in part omitted from the article; 403(a)—the label statement "Pure Olive Oil" was false and misleading as applied to a product which contained cottonseed oil with little or no olive oil; and 403(i)(2)—the article was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient.

DISPOSITION: 2-9-59. Consent—claimed by East Coast Enterprises, Inc., and relabeled.

25446. Table and cooking oil. (F.D.C. No. 42692. S. No. 17-523 P.)

QUANTITY: 1,500 gals. in bulk at Toledo, Ohio.

SHIPPED: 5-8-58 and 8-9-58, from Fort Worth, Tex.

LIBELED: 2-12-59, N. Dist. Ohio.

CHARGE: 402(a)(2)—while held for sale, the article contained an added poisonous or deleterious substance which is unsafe within the meaning of

406, since this substance is not required in the production of the food and can be avoided by good manufacturing practice; 402(b)(2)—mineral oil had been substituted in whole or in part for edible oil; and 402(b)(4)—mineral oil had been added to the article or mixed therewith so as to increase its bulk and reduce its quality.

DISPOSITION: 3-13-59. Default—destruction.

25447. Table and cooking oil. (F.D.C. No. 42887. S. No. 47-386 P.)

QUANTITY: 8 cases, 6 1-gal. cans each, at Boston, Mass.

SHIPPED: The cottonseed oil and olive oil ingredients of the article were shipped from outside the State of Massachusetts, and after their receipt by the Cara-Donna Olive Oil Co., at Boston, Mass., were used in the manufacture of the article.

LABEL IN PART: (Can) "Family Oil High Grade Brand * * * Cara-Donna Oil Company, Boston, Mass. * * * Vegetable oil with 10% Imported Olive Oil," or "Fine Table Oil * * * Vegetable Oils with 10% Pure Imported Olive Oil Di Lusso Brand * * * Cara-Donna Olive Oil Co. Boston, Mass."

RESULTS OF INVESTIGATION: Examination showed the article to be cottonseed oil with little or no olive oil.

LIBELED: 3-16-59, Dist. Mass.

CHARGE: 402(b)(1)—while held for sale, a valuable constituent, olive oil, had been in part omitted from the article; 403(a)—the label statement "10% Imported Olive Oil" was false and misleading; and 403(i)(2)—the article was fabricated from two or more ingredients, and it failed to bear a label containing the common or usual name of each such ingredient.

DISPOSITION: 4-30-59. Default—delivered to a charitable institution for its use and not for sale.

SPICES, FLAVORS, AND SEASONING MATERIALS

25448. Sesame seed. (F.D.C. No. 42997. S. No. 40-684 P.)

QUANTITY: 64 100-lb. bags at San Francisco, Calif., in possession of H. G. Walters Co.

SHIPPED: 7-9-58 and 9-24-58, from Nicaragua.

LIBELED: 5-6-59, N. Dist. Calif.

CHARGE: 402(a)(3)—contained rodent urine, insects, and insect excreta; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 5-15-59. Consent—claimed by Lastreto Phillips Commercial Co., Inc., San Francisco, Calif. Segregated; 114 lbs. denatured.

25449. Cardamom seed. (F.D.C. No. 42966. S. No. 48-322 P.)

QUANTITY: 10 100-lb. bags at San Francisco, Calif.

SHIPPED: 10-23-58, from Guatemala.

LIBELED: 4-8-59, N. Dist. Calif.

CHARGE: 402(a)(3)—contained insects and moldy seeds while held for sale; and 403(a)—the label statement "Clean Coffee" was false and misleading as applied to an article consisting of whole cardamom seed in the hull.

DISPOSITION: 4-21-59. Consent—claimed by H. M. Newhall & Co., San Francisco, Calif. Segregated; 291 lbs. destroyed.

25450. Black pepper. (F.D.C. No. 42677. S. No. 15-821 P.)

QUANTITY: 276 1-oz. cans, 120 4-oz. cans, 228 8-oz. cans, and 64 1-lb. cans, at Steubenville, Ohio.

SHIPPED: 8-14-58 and 9-29-58, from Brooklyn, N.Y., by Safe Owl Products, Inc.

LABEL IN PART: "Safe Owl * * * Pure Black Pepper."

LIBELED: 1-29-59, S. Dist. Ohio.

CHARGE: 402(b)(2)—when shipped, ground buckwheat hulls had been substituted in whole or in part for black pepper; 402(b)(4)—ground buckwheat hulls had been added to the article or mixed or packed therewith so as to increase its bulk or weight and reduce its quality; and 403(a)—the label statement "Pure Black Pepper" was false and misleading.

DISPOSITION: 3-17-59. Default—destruction.

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¹ (25414) Injunction issued.

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SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS

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Ammons Grocery Co.:		Braun, J. F., & Sons:	
flour	25362	unshelled brazil nuts	25437
Ashcraft, L. K., Co.:		Bundy, L.R.:	
flour	25366	cornmeal	25357
Back, L. W.:		Bundy Bros. & Sons:	
flour	25359	cornmeal	25357
Bayside Canning Co.:		Canadian Fish Producers, Ltd.:	
canned tomatoes	25429	frozen dressed whitefish	25399-25401
Behrhorst, H. F. & Son, Inc.:		Cannon, H. P., & Son, Inc.:	
tomato puree	25432	red sweet peppers	25427
Berner, Robert L., Co.:		Cara-Donna Olive Oil Co.:	
unshelled brazil nuts	25436	table and cooking oil	25447

SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS—Continued

	N.J. No.		N.J. No.
Chinese Food Products, Inc.:		Feldman Commission Co., Inc.:	
chow mein noodles-----	25369	dried pinto beans-----	25418
Coastal Foods Co., Div. of		Frigid Food Products, Inc.:	
Consolidated Foods Corp.:		frozen eggs-----	25395
canned tomatoes-----	25429, 25430	Gallucci, Gust, Co.:	
Consolidated Food Processors, Inc.		olives in brine-----	25426
See Marshall Canning Div.		Genoa Packing Co.:	
Consolidated Food Corp. See		table and cooking oil-----	25445
Coastal Foods Co.		Greenpoint Terminal Warehouse,	
Continental Baking Co. See		Inc.:	
Morton Frozen Foods.		dried chickpeas and green	
Continental Grain Co.:		coffee beans-----	25425
wheat-----	25374	Guthrie Biscuit Co.:	
Covington Grain Co.:		chocolate cookies-----	25353
wheat-----	25380	Hartford Peanut Co.:	
Daylight Grocery Co.:		shelled peanuts-----	25441
dried lima beans-----	25420	Haslett Warehouse Co.:	
Dorchester Cooperative Elevator		rice and dried mung beans---	25370
Association:		Haxton Foods, Inc.:	
wheat-----	25373	dried lima beans-----	25419
Dorsel Co.:		Holmquist, E. F.:	
cornmeal-----	25357	flour-----	25359
Dortch, D. L., Jr.:		Indiana Wholesale Food Supply	
bakery products-----	25351	Corp.:	
Dortch Baking Co.:		rice, barley, rolled oats, un-	
bakery products-----	25351	popped popcorn, dried	
Dye Candy Co.:		navy beans, dried green	
candy-----	25385	split peas, dried black-	
East Coast Enterprises, Inc.:		eyed peas, dried Great	
table and cooking oil-----	25445	Northern beans, and dried	
Eastern Grocery Co.:		cranberry beans-----	25372
rice-----	25371	Johnston, Robert A., Co.:	
Endicott, Roy:		instant chocolate-flavored	
sorghum sirup-----	25388	mix -----	25384
Enoch Packing Co.:		Kimbell-Little Rock Co.:	
dried apples-----	25409, 25410	flour, cornmeal, and dried	
Equity Cooperative Association:		lima beans-----	25364
wheat-----	25376	King, H. R.:	
Farm House Frozen Pies, Div. of		chow mein noodles-----	25369
Connecticut Pie Baking Co.,		Klessig, H. C.:	
Inc.:		cheese -----	25393
chocolate cream pie-----	25354	Knights, A. A., & Son Corp.:	
frozen pecan pies and frozen		dried apple pomace -----	25413
macaroni and cheese		Knoebel, F. C.:	
casseroles -----	25356	flour and rice-----	25358
Farmers Cooperative Elevator		Knoebel Merchantile Co.:	
Co.:		flour and rice-----	25358
wheat -----	25375	La Grange Mills:	
Farmers Elevator Co. See		flour -----	25359
Larson, Atwood.			

SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS—Continued

	N.J. No.		N.J. No.
Lamar Flour Mills Co.:		Puritan Preserve Co. <i>See</i> Phillips	
flour -----	25363	Products Corp.	
Larson, Atwood:		Raymond Packing Co.:	
wheat -----	25379	frozen eggs -----	25394
Laurel Grocery Co.:		Richardson, H. M.:	
flour -----	25365	cider, vinegar, and an acidu-	
LeFrois, J. B. & Sons:		lated mixture of water and	
sweet pickles -----	25428	limejuice ----- ¹	25414
Lime Products, Inc.:		Richardson Vinegar Works. <i>See</i>	
cider, vinegar, and an acid-		Richardson, H. M.	
ulated mixture of water		Rockwood Chocolate Co., Inc.:	
and limejuice ----- ¹	25414	candy -----	25387
Lipson, Israel:		Rudolph, L., Co., Inc.:	
bread -----	25352	frozen eggs -----	25394
McCune, Potter, Co.:		Safe Owl Products, Inc.:	
tomato catsup -----	25431	black pepper -----	25450
McDowell Grocery Co.:		Safeway Stores, Inc.:	
flour -----	25360	chocolate cookies -----	25353
Marshall Canning Div., Consoli-		Sampson Canning Co.:	
dated Food Processors, Inc.:		canned cut green beans -----	25421,
canned cut green beans -----	25422		25422
Meador, W. M., & Co.:		Seneca Milling Co.:	
dried black-eyed peas -----	25424	flour -----	25360
Modern Egg Products, Inc.:		Smith, W. J., & Co.:	
frozen eggs -----	25396, 25398	coconut -----	25443
Monark Egg Corp.:		Sommers, W. O., Inc.:	
frozen eggs -----	25398	grapejuice -----	25416
Morton Frozen Foods, Div. of		Stanz Cheese Co., Inc.:	
Continental Baking Co.:		cheese -----	25392
frozen fruit pies -----	25355	Star Van & Storage Co.:	
My Own Quality Bakery, Inc.:		corn sugar -----	25389
bread -----	25352	Starke County Farm Bureau	
Oconee Roller Mills. <i>See</i> Ables,		Cooperative:	
H. G.		wheat -----	25378
Palmer-Swadley Wholesale Co.:		Superior Egg, Inc.:	
flour and hominy -----	25361	frozen eggs -----	25396
Park, David, Co.:		Swadley, Guy, Jr.:	
butter -----	25390	flour and hominy -----	25361
Personalized Candies, Inc.:		Uddo & Taormina Co.:	
candy -----	25386	pizza sauce -----	25433
Pfaffman Co.:		Vannoy, Roy:	
macaroni and egg noodles -----	25368	sorghum sirup -----	25388
Phillips, J. S.:		Wagner, Warren, Shed:	
peanut butter -----	25444	fresh spinach -----	25417
Phillips Products Corp.:		Walters, H. G., Co.:	
peanut butter -----	25444	sesame seed -----	25448
Prince, G. W.:		Wilson Canning Co.:	
bakery products -----	25351	tomato catsup -----	25431
		puree -----	25432

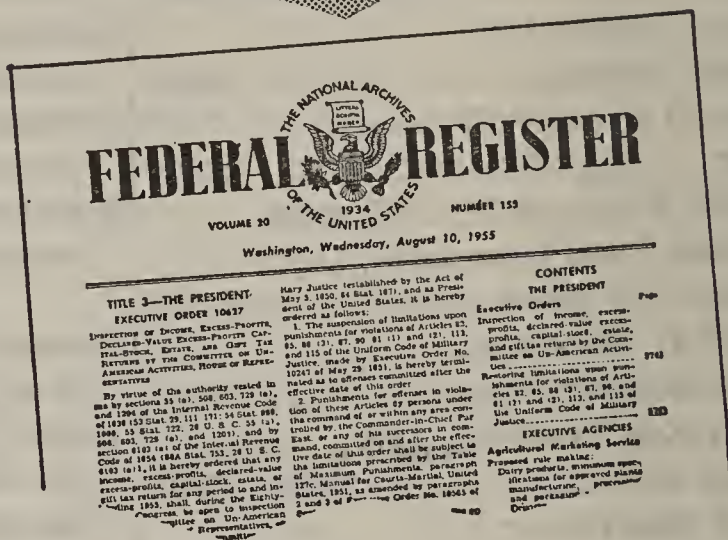
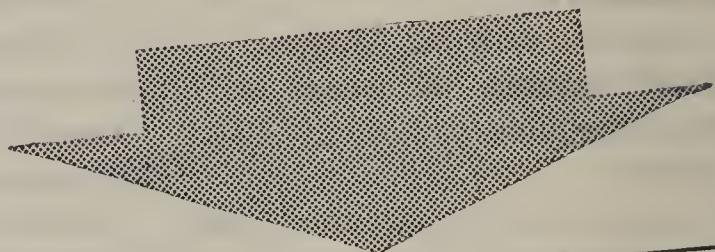
¹ (25414). Injunction issued.

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U.S. Department of Health, Education, and Welfare

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

25451-25550

FOODS

The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were adulterated or misbranded within the meaning of the Act when introduced into and while in interstate commerce, or while held for sale after shipment in interstate commerce. These cases involve (1) seizure proceedings in which decrees of condemnation were entered by default, or by consent; (2) criminal proceedings which were terminated upon pleas of guilty; and (3) injunction proceedings terminated upon the entry of permanent injunctions after hearing and by consent. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the criminal and injunction proceedings are against the *firms* or *individuals* charged to be responsible for violations.

Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs*.

WASHINGTON, D.C., January 4, 1960.

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**SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN VIOLATIONS
REPORTED IN F.N.J. NOS. 25451-25550**

Adulteration, Section 402(a) (2), the article, in four cases, contained an added poisonous or deleterious substance which was unsafe within the meaning of Section 406, and, in one case, the article was a raw agricultural commodity and contained a pesticide chemical which was unsafe within the meaning of Section 408(a); Section 402(a) (3), the article consisted in part of a filthy or decomposed substance, or it was otherwise unfit for food; Section 402(a) (4), the article had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth; Section 402(b) (1), a valuable constituent had been in whole or in part omitted or abstracted from the article; Section 402(b) (2), a substance had been substituted wholly or in part for the article; Section 402(b) (4), a substance had been added to the article or mixed or packed therewith so as to increase its bulk or weight or reduce its quality; Section 406(a), a poisonous or deleterious substance was added to food when such substance was not required in the production thereof and could have been avoided by good manufacturing practice, or a poisonous or deleterious substance required in the production of the article was added to the article in a quantity which exceeded the tolerance prescribed by regulations for such substance on the article; and Section 408(a), a poisonous or deleterious pesticide chemical had been added to a raw agricultural commodity; and no tolerance or exemption from the requirement of a tolerance for such pesticide chemical in or on the raw agricultural commodity had been prescribed by the Secretary of Health, Education, and Welfare.

Misbranding, Section 403(a), the labeling of the article was false and misleading; Section 403(e), the article was in package form, and it failed to contain (1) the name and place of business of the manufacturer, packer, or distributor, and (2) an accurate statement of the quantity of contents in terms of weight, measure, or numerical count; Section 403(g), the article purported to be and was represented as a food for which a definition and standard of identity had been prescribed by regulations, and (1) it failed to conform to such definition and standard, and (2) its label failed to bear the name of the food specified in the definition and standard; Section 403(h) (1), the article purported to be and was represented as a food for which a standard of quality had been prescribed by regulations, and it fell below such standard and its label failed to bear a statement that it fell below such standard; Section 403(i) (2), the article was not subject to the provisions of Section 403(g) and was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient; Section 403(j), the article purported to be and was represented for special dietary uses, and its label failed to bear such information concerning its vitamin, mineral, and other dietary properties as the Secretary has determined to be, and by regulation prescribed as, necessary in order fully to inform purchasers as to its value for such uses; Section 403(k), the article contained a chemical preservative, and its label failed to state that fact.

CEREALS AND CEREAL PRODUCTS**BAKERY PRODUCTS****25451. Buttermilk bread and buttermilk enriched bread.**

(Inj. No. 318.)

COMPLAINT FOR INJUNCTION FILED: 9-25-57, Dist. Columbia, against Continental Baking Co., a corporation, Washington, D.C.

CHARGE: The complaint alleged that the defendant was engaged in the baking business and was operating baking plants throughout the United States, including plants in Washington, D.C.; that defendant had been and was engaged at Washington, D.C., in the business of manufacturing, preparing, packing, selling, and distributing in interstate commerce, an article designated by the names "Buttermilk Bread" and "Buttermilk Enriched Bread," and that the article when introduced into interstate commerce, was misbranded as follows:

403(g) (1)—the article was and purported to be enriched bread, a food for which a definition and standard of identity had been prescribed by regulations and the article failed to conform to such definition and standard in that it contained nitrated flour which is not permitted as an ingredient of enriched bread;

403(g) (2)—the labels of the article failed to bear the name of the food specified in the definition and standard, namely, enriched bread, but was designated by the names "Buttermilk Bread" and "Buttermilk Enriched Bread".

It was alleged further that the use of the names "Buttermilk Bread" and "Buttermilk Enriched Bread" resulted in the consumer believing that, by the consumption of those breads, he was obtaining significant advantages over what would be obtained from the use of other breads that conformed to the standards; that although buttermilk was an ingredient permitted to be used in bread and enriched bread for which standards had been adopted, the practice of the defendant in emphasizing the name of the buttermilk ingredient led consumers to believe that the buttermilk imparted a distinct advantage to its bread over all other standardized bread or enriched bread; that this approach tended to destroy the confidence of the consumer in our basic foods, because it tended to nullify the purposes for which the bread standards were promulgated, namely, to promote honesty and fair dealings in the interest of the consumers; and that the promotional scheme employed by the defendant worked a disadvantage to competitors who adhered to the law and standards and refrained from the use of such promotional practices.

DISPOSITION: On 9-25-57, the court issued a temporary restraining order enjoining the defendant from producing or causing to be produced for introduction into interstate commerce, the article of food designated by the names "Buttermilk Bread" described as enriched, and "Buttermilk Enriched Bread," which purported to be and was represented as enriched bread and (1) which contained nitrated flour or (2) which bore a label designating the article by the name "Buttermilk Bread" described as enriched or "Buttermilk Enriched Bread"; and providing that nothing should prevent the designation of the article as "Bread" or "Enriched Bread" followed by a qualifying statement "made with buttermilk" where such legend was factual and was not misleading.

Thereafter a hearing was held on the Government's motion for preliminary injunction, and, on 10-3-57, the court filed its findings of fact and conclusions of law and entered an order enjoining the defendant from the acts complained of pending the final determination of the case.

Subsequently, on 6-24-58, the defendant having consented, and without trial or the adjudication of any issue of fact or law and without the final judgment constituting evidence or admission by the defendant in respect of any such issue, the court entered a decree of permanent injunction enjoining the defendant from producing or causing to be produced for introduction or delivery for introduction into interstate commerce, any article which purports and is represented to be enriched bread, and which (1) contains nitrated flour or (2) which is designated by the names "Buttermilk Bread" or "Buttermilk Enriched Bread" unless and until the definition and standard of identity for enriched bread permits the use of nitrated flour or the use of the names "Buttermilk Bread" or "Buttermilk Enriched Bread."

25452. Ryola Crisp rye. (F.D.C. No. 42616. S. No. 27-322 P.)

QUANTITY: 41 cases, 12 pkgs. each, at Superior, Wis.

SHIPPED: 11-4-58, from Minneapolis, Minn., by Ryola Co.

LABEL IN PART: (Pkg.) "Ryola Scandinavian Style Crisp Rye * * * Net Weight 11 Ounces."

LIBELED: 12-3-58, W. Dist. Wis.

CHARGE: 402(a)(3)—contained insects, insect fragments, and rodent hair fragments; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 1-6-59. Default—destruction.

CORNMEAL

25453. Cornmeal. (F.D.C. No. 42874. S. Nos. 49-361/2 P.)

QUANTITY: 8 bales, 10 5-lb. bags each, and 8 bales, 5 10-lb. bags each, at Wenatchee, Wash.

SHIPPED: 10-1-58, from Lodi, Calif.

LIBELED: 3-9-59, E. Dist. Wash.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 5-5-59. Default—destruction.

25454. Cornmeal and flour. (F.D.C. No. 42629. S. Nos. 38-635/6 P.)

QUANTITY: 63 25-lb. bags of cornmeal and 50 25-lb. bags of flour at Prescott, Ark., in possession of Logan Grocer Co.

SHIPPED: 10-8-58 and 10-21-58, from Yukon, Okla.

LIBELED: 12-4-58, W. Dist. Ark.

CHARGE: 402(a)(3)—contained rodent urine and rodent excreta; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 1-22-59. Default—delivered to a public institution for use as animal feed.

FLOUR*

25455. Flour. (F.D.C. No. 42808. S. No. 35-437 P.)

QUANTITY: 500 bags at Norristown, Pa.

SHIPPED: 12-24-58, from Alton, Ill.

RESULTS OF INVESTIGATION: Examination showed that the freight car in which the article was shipped was infested with rodents.

*See also No. 25454.

LIBELED: 1-29-59, E. Dist. Pa.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 2-19-59. Consent—claimed by Reading Railroad Co., Philadelphia, Pa., and converted into animal feed.

25456. Flour. (F.D.C. No. 42792. S. Nos. 1-157/8 P.)

QUANTITY: 235 25-lb bags and 420 10-lb bags at Waynesboro, Ga., in possession of Waynesboro Grocery Co.

SHIPPED: 12-9-58, from Chattanooga, Tenn.

LIBELED: 1-16-59, S. Dist. Ga.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 2-27-59. Default—destruction.

25457. Flour. (F.D.C. No. 42848. S. No. 33-128 P.)

QUANTITY: 60 100-lb. bags at Newark, N.J., in possession of Wigler's Bakery, Inc.

SHIPPED: 11-11-58, from Buffalo, N.Y.

LIBELED: About 2-24-59, Dist. N.J.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 3-23-59. Default—destruction.

25458. Flour. (F.D.C. No. 42832. S. Nos. 40-663/7 P.)

QUANTITY: 152 100-lb. bags at Sacramento, Calif., in possession of Western Warehouse Co.

SHIPPED: Between 3-27-58 and 10-9-58, from Seattle, Wash.

LIBELED: 2-25-59, N. Dist. Calif.

CHARGE: 402(a)(3)—contained rodent urine, insects, insect larvae, insect webbing, and insect excreta; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 5-1-59. Consent—claimed by Fisher Flouring Mills Co., Seattle, Wash., and converted into animal feed.

25459. Flour. (F.D.C. No. 42925. S. Nos. 33-145/6 P.)

QUANTITY: 266 100-lb. bags at North Bergen, N.J., in possession of S. Davis Co.

SHIPPED: 1-7-59 and 1-28-59, from Minneapolis and Hastings, Minn.

LIBELED: 4-10-59, Dist. N.J.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 5-4-59. Consent—claimed by S. Davis Co. Segregated; 178 bags denatured for use as animal feed.

25460. Flour. (F.D.C. No. 42929. S. No. 33-147 P.)

QUANTITY: 28 100-lb. bags at Paterson, N.J., in possession of A. Giger & Co.

SHIPPED: 1-23-59, from Buffalo, N.Y.

LIBELED: 4-7-59, Dist. N.J.

CHARGE: 402(a)(3)—contained rodent urine and rodent excreta pellets; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 5-11-59. Default—destruction.

25461. Flour. (F.D.C. No. 42991. S. No. 53-929 P.)

QUANTITY: 42 50-lb. bags at Little Rock, Ark.

SHIPPED: 1-10-59, from Denton, Tex.

LIBELED: 4-27-59, E. Dist. Ark.

CHARGE: 402(a)(3)—contained rodent urine while held for sale.

DISPOSITION: 5-22-59. Default—delivered to a public institution, for use as animal feed.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS

25462. Unpopped popcorn. (F.D.C. No. 42985. S. No. 53-925 P.)

QUANTITY: 49 cases, 24 1-lb. bags each at Little Rock, Ark., in possession of Terminal Warehouse Co.

SHIPPED: 6-10-58, from St. Louis, Mo.

LIBELED: 4-17-59, E. Dist. Ark.

CHARGE: 402(a)(3)—contained insects and insect excreta; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 5-14-59. Default—delivered to a public institution, for use as animal feed.

25463. Unpopped popcorn. (F.D.C. No. 42418. S. Nos. 25-451/2 P.)

INFORMATION FILED: 5-1-59, N. Dist. Iowa, against Central Popcorn Co., a corporation, Schaller, Iowa, and Rupert Lynch, plant foreman.

SHIPPED: 9-17-58, from Iowa to Minnesota.

LABEL IN PART: (Bag) "Bang-O Brand White Hulless Popcorn Packed By Central Popcorn Co., Schaller, Iowa."

CHARGE: 402(a)(3)—when shipped, contained rodent excreta, rodent urine, and rodent-gnawed and insect-attacked kernels; and 402(a)(4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 5-16-59. Corporation—\$250 fine; individual—\$25 fine.

25464. Rice. (F.D.C. No. 42227. S. Nos. 2-323 P, 2-327/8 P.)

QUANTITY: 258 bales, each containing 20 3-lb. bags, and 71 bales, each containing 30 2-lb. bags at Stuttgart, Ark.

SHIPPED: 9-4-58, from Tifton, Ga. This was a return shipment.

LIBELED: 10-17-58, E. Dist. Ark.

CHARGE: 402(a)(3)—contained insects when shipped.

DISPOSITION: 3-3-59. Consent—claimed by Arkansas Rice Growers Cooperative Association, Stuttgart, Ark. Segregated; 185 lbs. denatured.

25465. Rice. (F.D.C. No. 42813. S. No. 5-228 P.)

QUANTITY: 39 bales, 10 10-lb. bags each, at Clinton, N.C.

SHIPPED: 10-6-58, from Mermentau, La.

LIBELED: 2-12-59, E. Dist. N.C.

CHARGE: 402(a)(3)—contained insects and rodent hairs while held for sale.

DISPOSITION: 4-30-59. Default—destruction.

25466. Rice. (F.D.C. No. 42935. S. Nos. 38-846/52 P.)

QUANTITY: 71 50-lb. bags and 596 100-lb. bags at Fresno, Calif., in possession of Colonial Van & Storage Co.

SHIPPED: Between 12-16-57 and 2-27-59, from Stuttgart, Ark., and Houston, Tex.

LIBELED: 4-14-59, S. Dist. Calif.

CHARGE: 402(a)(3)—contained rodent urine and insects; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 5-12-59 and 5-28-59. Martin Berberian, t/a Marbro Food Products, Fresno, Calif., having appeared as claimant for 300 100-lb. bags of the article, and Ed Otani, t/a San Joaquin Mercantile Co., Reedley, Calif., having appeared as claimant for the remainder of the article, and the claimants having consented to the entry of decrees, judgments of condemnation were entered and the court ordered that the articles be released under bond for the purpose of segregating the good portion from the bad. As a result of the segregation operations, 71 50-lb. bags and 193 100-lb. bags were found unfit and were denatured for use as animal feed.

25467. Rice. (F.D.C. No. 42867. S. No. 48-062 P.)

QUANTITY: 13 100-lb. bags at South Boston, Mass.

SHIPPED: 3-26-58, from Houston, Tex.

LIBELED: 3-3-59, Dist. Mass.

CHARGE: 402(a)(3)—contained insect larvae and rodent excreta pellets while held for sale.

DISPOSITION: 4-30-59. Default—delivered to a public institution, for use as animal feed.

25468. Wheat. (Inj. No. 320.)

COMPLAINT FOR INJUNCTION FILED: 11-22-57, W. Dist. Okla., against Kaw Grain Co., Inc., Kaw City, Okla., and Edward Johnston, president, and Paul Johnston, vice president.

CHARGE: The complaint alleged that the defendants were engaged in operating a grain elevator for the storage and distribution of wheat for human consumption, and that the defendants were causing to be introduced into interstate commerce, at Kaw City, Okla., wheat which was adulterated within the meaning of 402(a)(4) by reason of being held under insanitary conditions.

It was alleged further that the insanitary conditions resulted from and consisted of the storage of wheat in bins which were accessible to rodents and birds; the presence of insects, bird excreta, and rodent excreta pellets in the wheat; rodent excreta pellets and live insects in various parts of the elevator and bins; unscreened windows in the elevator; live birds and bird excreta droppings in the headhouse of the elevator; live rats and rat burrows around the foundations of the elevator; and accumulations of dust and old grain in the elevator.

The complaint alleged further that the defendants were well aware that their activities were violative of the Act; that various inspections had been

made by the Food and Drug Administration, at which times the insanitary conditions in the plant were called to the attention of the defendants; and that despite such warnings, the defendants failed to correct the insanitary conditions and continued to introduce into interstate commerce, wheat which was adulterated as specified above.

DISPOSITION: On 11-22-57, the court issued a temporary restraining order enjoining the defendants from introducing into interstate commerce, wheat which was adulterated as described in the complaint.

On 12-19-57, the defendants having consented to the entry of a decree of permanent injunction insofar as it pertained to the grain elevator designated as grain elevator No. 2, Kaw City, Okla., the court entered a decree permanently enjoining and restraining the defendants from introducing into interstate commerce, wheat for human consumption and any similar article held in Elevator No. 2, Kaw City, Okla., unless and until the following acts were done:

(a) The elevator was thoroughly cleaned, renovated, and rendered suitable for the storage of wheat for human consumption and any similar article; all rodent, bird, and insect filth, and other filth was removed from the elevator and the equipment used in storing the article was cleaned; all rodent, bird, and insect infestation in the elevator was eliminated; the means of ingress and egress by rodents, birds, and insects were closed by repairing the foundations of the elevator and by installing screening on all windows; tops to the elevator bins used in the storage of such food were installed so as to prevent the entry of rodents, birds, and insects into such bins, and other similar insanitary conditions were eliminated;

(b) All of the wheat for human consumption on hand in the elevator at the time the elevator was cleaned, renovated, and rendered suitable for the storage of food for human consumption, was destroyed, denatured for use as animal feed, or cleaned and otherwise reconditioned, and brought into compliance with the Act under the supervision of a representative of the Food and Drug Administration, with all costs of the supervision to be borne by the defendants; and

(c) An inspection was made of the elevator by a representative of the Food and Drug Administration, and a report made to the court, showing that the above-described insanitary conditions no longer existed and that the wheat described in paragraph (b), above, had been destroyed, denatured, or brought into compliance with the law.

It was shown subsequently that the defendants had corrected the insanitary conditions at their grain elevator No. 2 at Kaw City, Okla., and accordingly the court, on 9-2-58, entered an order permitting the shipment of wheat in interstate commerce from such elevator.

25469. Wheat. (F.D.C. No. 41228. S. No. 68-048 M.)

QUANTITY: 80,000 lbs. at Kansas City, Kans.

SHIPPED: 12-7-57, from Liberty, Nebr., by Ryle Elevator.

LIBELED: 12-20-57, Dist. Kans.

CHARGE: 402(a) (3)—contained rodent pellets when shipped.

DISPOSITION: 1-11-58. Consent—claimed by Root Grain Co. Segregated; 680 lbs. destroyed.

25470. Wheat. (F.D.C. No. 41638. S. No. 25-728 P.)

QUANTITY: 92,880 lbs. at Minneapolis, Minn.

SHIPPED: 3-11-58, from Rockham, S. Dak., by Rockham Farmers Elevator.

LIBELED: 3-25-58, Dist. Minn.

CHARGE: 402(a) (3)—contained rodent pellets when shipped.

DISPOSITION: 3-26-58. Consent—claimed by Rockham Farmers Elevator. Segregated; 6,880 lbs. denatured.

25471. Wheat. (F.D.C. No. 42111. S. No. 26-925 P.)

QUANTITY: 25,000 lbs. at Minneapolis, Minn.

SHIPPED: 8-21-58, from Anamoose, N. Dak., by Victoria Elevator Co.

LIBELED: 9-5-58, Dist. Minn.

CHARGE: 402(a) (2)—when shipped, the article contained a pesticide chemical, namely, a mercurial compound, which is unsafe within the meaning of 408 since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat has been prescribed by regulations.

DISPOSITION: 9-10-58. Consent—claimed by Victoria Elevator Co. Segregated; 8,170 lbs. destroyed.

25472. Wheat. (F.D.C. No. 42621. S. No. 27-168 P.)

QUANTITY: 105,000 lbs. at St. Paul, Minn.

SHIPPED: 11-11-58, from Litchville, N. Dak., by Litchville Elevator Co.

LIBELED: 12-5-58, Dist. Minn.

CHARGE: 402(a) (3)—contained rodent pellets when shipped.

DISPOSITION: 12-11-58. Consent—claimed by Ralph Hegman Co., Minneapolis, Minn., and 22,280 lbs. segregated as unfit.

25473. Wheat. (F.D.C. No. 42651. S. No. 45-568 P.)

QUANTITY: 115,200 lbs. at Denver, Colo.

SHIPPED: 12-10-58, from Bushnell, Nebr., by Kimball County Grain Cooperative.

LIBELED: 12-17-58, Dist. Colo.

CHARGE: 402(a) (3)—contained rodent pellets when shipped.

DISPOSITION: 12-19-58. Consent—claimed by Kimball County Grain Cooperative. Segregated; 11,400 lbs. denatured.

25474. Wheat. (F.D.C. No. 42631. S. No. 43-234 P.)

QUANTITY: 100,800 lbs. at Denver, Colo.

SHIPPED: 11-26-58, from Carpenter, Wyo., by Dunbar Grain Co.

LIBELED: 12-8-58, Dist. Colo.

CHARGE: 402(a) (3)—contained rodent pellets when shipped.

DISPOSITION: 12-10-58. Consent—claimed by Dunbar Grain Co. Segregated; 6,900 lbs. denatured.

25475. Wheat. (F.D.C. No. 42939. S. No. 10-872 P.)

QUANTITY: 93,000 lbs. at Buffalo, N.Y.

SHIPPED: 3-7-59, from Youngstown, Ohio, by Crouse Mills.

LIBELED: 3-12-59, W. Dist. N.Y.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 3-17-59. Consent—claimed by Ohio Farmers Grain Corp., Fostoria, Ohio, and converted into animal feed.

25476. Wheat. (F.D.C. No. 42999. S. No. 25-054 P.)

QUANTITY: 95,950 lbs. at Minneapolis, Minn.

SHIPPED: 4-21-59, from Galesburg, N. Dak., by Victoria Elevator.

LIBELED: 5-5-59, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 5-12-59. Consent—claimed by Victoria Elevator Co., Minneapolis, Minn. Segregated; 13,660 lbs. denatured for use as animal feed.

25477. Wheat. (F.D.C. No. 43005. S. No. 60-392 P.)

QUANTITY: 19,890 lbs. at Seattle, Wash.

SHIPPED: 5-1-59, from Lewiston, Idaho, by J. F. Konen.

LIBELED: 5-8-59, W. Dist. Wash.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 5-13-59. Consent—claimed by J. F. Konen and converted into animal feed.

25478. Wheat. (F.D.C. No. 42998. S. No. 10-674 P.)

QUANTITY: 66,960 lbs. at Buffalo, N.Y.

SHIPPED: 4-28-59, from Galion, Ohio, by Galion Equity Exchange Co.

LIBELED: 5-4-59, W. Dist. N.Y.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 5-18-59. Consent—claimed by Galion Equity Exchange Co. and converted into animal feed.

25479. Wheat. (F.D.C. No. 43009. S. No. 52-437 P.)

QUANTITY: 86,400 lbs. at Minneapolis, Minn.

SHIPPED: 4-24-59, from La Mars, N. Dak., by La Mars Cooperative Elevator Co.

LIBELED: 5-12-59, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 5-19-59. Consent—claimed by La Mars Cooperative Elevator Co. Segregated; 43,670 lbs. denatured for use as animal feed.

EGGS

25480. Frozen eggs. (F.D.C. No. 42825. S. No. 32-208 P.)

QUANTITY: 128 cans at Brooklyn, N.Y.

SHIPPED: 1-20-59, from Newark, N.J., by Independent Food Products Co.

LABEL IN PART: "Frozen Whole Eggs Packed for Independent Food Products Co., 30 Lbs. Net Wt. Newark, N.J."

LIBELED: 2-13-59, E. Dist. N.Y.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 3-5-59. Default—destruction.

25481. Frozen eggs. (F.D.C. No. 42710. S. No. 54-034 P.)

QUANTITY: 60 cans at St. Louis, Mo.

SHIPPED: 10-29-58, from Atlanta, Ga., by William Horvath.

LIBELED: On or about 2-20-59, E. Dist. Mo.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 3-18-59. Default—destruction.

25482. Frozen eggs. (F.D.C. No. 42431. S. No. 7-676 P.)

INFORMATION FILED: 4-3-59, Dist. Conn., against Algerie L. Bolduc, t/a Pierce Quality House, Moosup, Conn.

SHIPPED: 7-10-58, from Connecticut to Massachusetts.

LABEL IN PART: (Can) "Pierce Quality House Moosup, Connecticut 30 Lbs. Whole Fresh Frozen Eggs."

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

PLEA: Guilty.

DISPOSITION: 4-27-59. \$250 fine, plus costs.

25483. Frozen eggs. (F.D.C. No. 42709. S. No. 54-033 P.)

QUANTITY: 186 cans at St. Louis, Mo.

SHIPPED: 1-22-59, from Nashville, Tenn., by Modern Egg Products.

LABEL IN PART: "30 Lbs. Net Wt. Modern Egg Products, Nashville, Tenn. Frozen Whole Eggs."

LIBELED: On or about 2-20-59, E. Dist. Mo.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 3-19-59. Default—destruction.

25484. Frozen eggs. (F.D.C. No. 42779. S. No. 3-099 P.)

QUANTITY: 9 30-lb. cans at Lakeland, Fla., in possession of Superior Frozen Foods.

SHIPPED: Shell eggs were shipped on an unknown date, from outside the State of Florida.

RESULT OF INVESTIGATION: Frozen eggs were prepared by Superior Frozen Foods from shell eggs shipped as described above.

LIBELED: 1-8-59, S. Dist. Fla.

CHARGE: 402(a)(3)—contained decomposed eggs while held for sale.

DISPOSITION: 2-6-59. Default—destruction.

25485. Frozen eggs. (F.D.C. No. 42844. S. No. 35-577 P.)

QUANTITY: 740 cans at Philadelphia, Pa.

SHIPPED: 1-24-59, from Atlanta, Ga., by Superior Egg Co.

LABEL IN PART: "Superior Brand Whole Eggs Net Wt. 30 Lbs. Distributed by Superior Egg, Inc., Atlanta, Georgia."

LIBELED: 2-18-59, E. Dist. Pa.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 3-23-59. Default—destruction.

FISH AND SHELLFISH

25486. Fresh dressed whitefish. (F.D.C. No. 42822. S. No. 47-032 P.)

QUANTITY: 22 boxes at Chicago, Ill.

SHIPPED: 1-26-59, from Winnipeg, Canada, by Canadian Fish Producers, Ltd.

LABEL IN PART: "Canadian Fish Producers Ltd. Winnipeg Man. 60 Med Dr Whites Bigstone Lake Manitoba."

LIBELED: 2-5-59, N. Dist. Ill.

CHARGE: 402(a)(3)—contained parasitic cysts when shipped.

DISPOSITION: 3-6-59. Consent—claimed by Pick-Shapiro Fisheries, Inc., Chicago, Ill., and returned to shipper in Canada.

25487. Fresh dressed whitefish. (F.D.C. No. 42950. S. No. 47-187 P.)

QUANTITY: 44 60-lb. boxes at Detroit, Mich.

SHIPPED: 3-9-59, from Winnipeg, Canada, by Keystone Fisheries, Ltd.

LABEL IN PART: "Product of Canada Keystone Fisheries Ltd. Winnipeg, Man. 60 Med. Dr. Whites Gods Lake, Man."

LIBELED: 3-20-59, E. Dist. Mich.

CHARGE: 402(a)(3)—contained parasitic cysts when shipped.

DISPOSITION: 5-12-59. Consent—claimed by J. Kozloff Fish Distributors, Inc., Detroit, Mich., and Keystone Fisheries, Ltd., and returned to original shipper in Canada.

25488. Frozen tullibees. (F.D.C. No. 42735. S. No. 51-911 P.)

QUANTITY: 95 115-lb. boxes at Minneapolis, Minn.

SHIPPED: 2-6-59, from Winnipeg, Canada, by Canadian Fish Producers, Ltd.

LABEL IN PART: "Canadian Fish Producers Ltd. Winnipeg, Man. Product of Canada Rd. Tullibees Lake Dauphin, Manitoba."

LIBELED: 3-31-59, Dist. Minn.

CHARGE: 402(a)(3)—contained parasitic cysts when shipped.

DISPOSITION: 5-27-59. Consent—claimed by Canadian Fish Producers, Ltd., and exported to original foreign supplier in Canada.

25489. Frozen haddock fillets. (F.D.C. No. 42928. S. No. 47-778 P.)

QUANTITY: 78 10-lb. ctns. at Boston, Mass.

SHIPPED: These fillets were from fish caught in the Atlantic Ocean outside the limits of Massachusetts by the fishing vessel "Racer," on 3-26-59.

LIBELED: 4-6-59, Dist. Mass.

CHARGE: 402(a)(3)—contained decomposed fish when shipped.

DISPOSITION: 5-25-59. Default—destruction.

25490. Frozen halibut steaks. (F.D.C. No. 41620. S. No. 15-763 P.)

QUANTITY: 321 cases, 12 12-oz. pkgs. each, at Cincinnati, Ohio.

SHIPPED: 10-17-57, from Seattle, Wash., by San Juan Fishing & Packing Co.

LABEL IN PART: "Halibut Steaks * * * San Juan."

LIBELED: 3-7-58, S. Dist. Ohio.

CHARGE: 402(a)(3)—contained decomposed fish when shipped.

DISPOSITION: 3-20-58. Consent—claimed by San Juan Fishing & Packing Co. Segregated; 1,136 lbs. converted into fertilizer.

25491. Frozen sablefish steaks. (F.D.C. No. 42812. S. No. 32-944 P.)

QUANTITY: 21 ctns., 12 1-lb. pkgs. each, at New York, N.Y.

SHIPPED: 2-12-53, from Seattle, Wash.

LIBELED: On or about 3-9-59, S. Dist. N.Y.

CHARGE: 402(a)(3)—contained rancid and decomposed fish steaks while held for sale.

DISPOSITION: 5-7-59. Default—destruction.

25492. Frozen smelts. (F.D.C. No. 42986. S. No. 58-912 P.)

QUANTITY: 167 cases, 12 pkgs. each, at Denver, Colo.

SHIPPED: 3-19-59, from Chicago, Ill., by Booth Fisheries Corp.

LABEL IN PART: (Pkg.) "Booth * * * Frozen Pan Ready Smelts Net Wt. 1 Pound, Headless, Dressed * * * Packed By Booth Fisheries Canadian Co. Ltd. * * * Chicago, Illinois."

LIBELED: 4-21-59, Dist. Colo.

CHARGE: 402(a)(2)—when shipped, the article contained sodium nitrite, an added poisonous and deleterious substance which is unsafe within the meaning of 406 since it is a substance not required in the production of the article and can be avoided by good manufacturing practice; 403(i)(2)—it was fabricated from two or more ingredients, and its label failed to contain the common or usual name of each ingredient; and 403(k)—it contained sodium nitrite, a chemical preservative, and it failed to bear a label stating that fact.

DISPOSITION: 5-11-59. Default—destruction.

25493. Frozen smelts. (F.D.C. No. 42989. S. No. 45-000 P.)

QUANTITY: 43 cases, 12 pkgs. each, at Denver, Colo.

SHIPPED: 3-19-59, from Chicago, Ill., by Booth Fisheries Corp.

LABEL IN PART: (Pkg.) "Booth * * * Frozen Pan Ready Smelts Net Wt. 1 Pound, Headless, Dressed * * * Packed By Booth Fisheries Canadian Co. Ltd. * * * Chicago, Illinois."

LIBELED: 4-24-59, Dist. Colo.

CHARGE: 402(a)(2)—when shipped, the article contained sodium nitrite, an added poisonous and deleterious substance which is unsafe within the meaning of 406 since it is a substance not required in the production of the article and can be avoided by good manufacturing practice.

DISPOSITION: 5-11-59. Default—destruction.

25494. Frozen breaded fish sticks. (F.D.C. No. 41967. S. No. 3-839 P.)

QUANTITY: 35 ctns., 12 10-oz. pkgs. each, at Landover, Md.

SHIPPED: 6-23-58, from St. Simons Island, Ga., by Sea Pak Corp.

LABEL IN PART: (Pkg.) "SEA PAK Quik Cook Fish Sticks 10 tasty fish sticks * * * Breaded * * * Distributed by Seapak Corporation, St. Simons Island, Georgia."

LIBELED: 8-4-58, Dist. Md.

CHARGE: 402(a)(3)—contained insect larvae; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 9-8-58. Sea Pak Corporation, having appeared and denied that the article was prepared and packed under insanitary conditions, but having admitted all other allegations of the libel, and the court having found that the article was adulterated when it was introduced into interstate commerce, in that it consisted in part of a filthy substance, judgment of condemnation was entered and the article was ordered to be destroyed.

25495. Frozen sole fillets. (F.D.C. No. 42980. S. No. 10-501 P.)

QUANTITY: 14 ctns., 10 boxes each, at Buffalo, N.Y.

SHIPPED: 2-17-59, from Detroit, Mich., by F. W. Bryce, Inc.

LABEL IN PART: (Box) "Sea-Seald Quick Frozen Sole Fillets Maritime-National Fish Division of National Sea Products Limited Halifax Nova Scotia 5 lbs. When Packed."

LIBELED: 4-9-59, W. Dist. N.Y.

CHARGE: 402(a)(2)—when shipped, the article contained an added poisonous and deleterious substance, sodium nitrite, which is unsafe within the meaning of 406 since it is a substance not required in the production of this article and can be avoided by good manufacturing practice.

DISPOSITION: 5-4-59. Consent—claimed by Theodore Kotok, t/a N. Kotok Fish Co., Buffalo, N.Y., and returned to the original shipper in Canada.

25496. Oysters. (F.D.C. No. 42650. S. No. 33-122 P.)

QUANTITY: 13 bbls., 200 12-oz. cans each, at Daytona Beach, Fla.

SHIPPED: 12-12-58, from Saxis, Va., by H. V. Drewer & Sons.

LABEL IN PART: (Can) "Delicious B & L Oysters-Bivalve Oyster Packing Co., Bivalve, Md."

LIBELED: 12-17-58, S. Dist. Fla.

CHARGE: 402(b)(2)—when shipped, water had been substituted in part for oysters; 402(b)(4)—water had been added to oysters and had been mixed and packed with them so as to increase their bulk and reduce their quality; and 403(g)(1)—the oysters failed to conform to the definition and standard of identity for oysters since the total volume of the oysters, plus the liquid when emptied from the vessel into which shucked, was more than four times the volume of the water or salt water in the vessel into which shucked, and since the total time of contact of the oysters with water, or salt water of less than 0.75 percent salt, after leaving the shucker was more than 30 minutes.

DISPOSITION: 12-23-58. H. V. Drewer & Sons, claimant, consented to the entry of a decree and judgment of condemnation was entered. The product was ordered released under bond for reprocessing and was subsequently found to be spoiled and was destroyed.

25497. Oysters. (F.D.C. No. 42573. S. No. 35-250 P.)

QUANTITY: 144 cans at Yeadon, Pa.

SHIPPED: 12-9-58, from Baltimore, Md., by Bay Food Products.

LABEL IN PART: "Capt. John's Fresh Oysters ½ U.S. Liquid Pint The Great A & P Tea Co., New York, New York, Distributors."

LIBELED: 12-12-58, E. Dist. Pa.

CHARGE: 403(g)(1)—when shipped, the article purported to be and was represented as raw oyster counts, a food for which a definition and standard of identity has been prescribed by regulations, and the article failed to conform to such definition and standard which provides that raw oyster counts are of such size that one gallon contains not more than 160 oysters and a quart of the smallest oysters selected therefrom contains not more than 44 oysters. The oysters of the article were of such size that one gallon contained 256 oysters and a quart of the smallest oysters selected from one gallon contained 102 oysters.

DISPOSITION: 12-18-58. Default—destruction.

25498. Oysters. (F.D.C. No. 42647. S. No. 5-155 P.)

QUANTITY: 27 bbls., containing a total of 4,000 12-oz. cans, and 20 gal. of oysters (standards); and 1,000 12-oz. cans, and 10 gal. of oysters (selects), at Canton, Ohio.

SHIPPED: 12-11-58, from Cheriton, Va., by H. Allen Smith.

LABEL IN PART: (Can) "Pioneer Brand Oysters * * * Packed for the Canton Provision Co. Canton, Ohio."

LIBELED: 12-15-58, N. Dist. Ohio.

CHARGE: 402(b)(2)—when shipped, water had been substituted in part for oysters; 402(b)(4)—water had been added to the oysters and mixed and packed with them so as to increase their bulk or weight and reduce their quality; and 403(g)(1)—the oyster standards and the oyster selects failed to conform to the definitions and standards of identity for such oysters since the total time of their contact with water or salt water after leaving the shucker was more than 30 minutes.

DISPOSITION: 1-30-59. Default—delivered to a public institution for its use and not for sale.

FRUITS AND VEGETABLES

DRIED FRUIT

25499. Dried apricots (2 seizure actions). (F.D.C. Nos. 41490, 41502. S. Nos. 38-888 P, 38-890 P.)

QUANTITY: 420 cases, 24 bags each, at Philadelphia, Pa., and New York, N.Y.

SHIPPED: 2-5-58 and 2-6-58, from San Jose, Calif., by Valley View Packing Co., Inc.

LABEL IN PART: (Bag) "Valley View Fancy [or "Large"] Santa Clara Apricots Net weight 12 [or "11"] Ounces."

LIBELED: 3-28-58 and 4-18-58, E. Dist. Pa., and S. Dist. N.Y.

CHARGE: 402(a)(3)—contained rodent pellets, insects, insect parts, and pieces of dirt when shipped.

DISPOSITION: 5-14-58 and 5-15-58. Consent—claimed by Valley View Packing Co., Inc. Segregated; 1,275 lbs. denatured for use as animal feed.

25500. Dates. (F.D.C. No. 42595. S. Nos. 54-016/18 P.)

QUANTITY: 383 70-lb. cases at St. Louis, Mo.

SHIPPED: On an unknown date, from New York, N.Y.

LIBELED: 12-31-58, E. Dist. Mo.

CHARGE: 402(a) (3)—contained insects and insect excreta while held for sale.

DISPOSITION: 1-30-59. Default—destruction.

25501. Prunes. (F.D.C. No. 42771. S. No. 32-205 P.)

QUANTITY: 6 80-lb. ctns. and 215 80-lb. bags at New York, N.Y.

SHIPPED: 10-6-58, from Santa Clara, Calif.

LIBELED: On or about 1-19-59, S. Dist. N.Y.

CHARGE: 402(a) (3)—contained insects while held for sale.

DISPOSITION: 1-23-59. Consent—claimed by American Fig & Date Co., New York, N.Y., and reconditioned by fumigation and a thorough washing.

VEGETABLES AND VEGETABLE PRODUCTS

25502. Canned cut green beans. (F.D.C. No. 42942. S. No. 25-987 P.)

QUANTITY: 74 cases, 24 cans each, at Laurens, Iowa.

SHIPPED: 3-21-58, from Wisconsin Rapids, Wis., by Sampson Canning Co.

LABEL IN PART: (Can) "Contents 15½ oz. * * * Sampson's Cut Green Beans
* * * Packed by Sampson Canning Co. Wisconsin Rapids, Wis."

LIBELED: On or about 3-20-59, N. Dist. Iowa.

CHARGE: 403(h) (1)—when shipped, the quality of the article fell below the standard of quality for canned cut green beans since the deseeded pods of the article contained more than 0.15 percent by weight of fibrous material, and its label did not bear, as specified by the regulations, a statement that it fell below such standard.

DISPOSITION: 4-16-59. Default—delivered to a charitable institution for its use and not for sale.

25503. Canned mushrooms. (F.D.C. No. 42987. S. Nos. 48-642/4 P.)

QUANTITY: 69 cases, 24 8-oz. cans each, 126 cases, 24 16-oz. cans each, and 29 cases, 24 1-lb. cans each, at Sequel, Calif.

SHIPPED: Between 1-29-59 and 3-6-59, from Salem, Oreg., by West Foods, Inc.

LABEL IN PART: (Can) "Shady Oak Fancy Sliced Button Mushrooms"
or "Shady Oak Fancy Buttons Mushrooms."

LIBELED: 4-23-59, N. Dist. Calif.

CHARGE: 403(a)—when shipped, the label statement "Mushrooms contain 2 to 4 times the amount of protein found in asparagus, beets, carrots, etc., and are among the highest carriers of vitamin C and at the same time contain vitamin B in appreciable quantities, plus a long list of beneficial minerals and other substances" was false and misleading since there is no significant difference between protein content of mushrooms and asparagus. Canned mushrooms are not among the highest carriers of vitamin C, but are comparable to several other types of canned vegetables, and canned mushrooms do not furnish significant amounts of a long list of beneficial minerals and other substances.

DISPOSITION: 6-1-59. Consent—claimed by West Foods, Inc., and relabeled.

25504. Canned mushrooms. (F.D.C. No. 42599. S. No. 40-352 P.)

QUANTITY: 14 cases, 24 cans each, at Oakland, Calif.

SHIPPED: 11-4-58 and 11-25-58, from Wilmington, Del., by Delaware Mushroom Cooperative Association.

LABEL IN PART: "First State Stems and Pieces Mushrooms * * * Drained Weight 16 Ounces Avoir. * * * Grown and Packed by Delaware Mushroom Cooperative Association, Wilmington, Delaware."

RESULTS OF INVESTIGATION: Examination showed that the article was undergoing chemical decomposition.

LIBELED: 1-6-59, N. Dist. Calif.

CHARGE: 402(a)(3)—contained a decomposed substance when shipped.

DISPOSITION: 1-27-59. Default—destruction.

25505. Canned sweetpotatoes. (F.D.C. No. 42582. S. No. 43-933 P.)

QUANTITY: 74 cases, 24 cans each, at Augusta, Ga.

SHIPPED: 9-23-58, from Tabor City, N.C.

LIBELED: 12-18-58, S. Dist. Ga.

CHARGE: 402(a)(3)—contained a decomposed substance while held for sale.

DISPOSITION: 3-4-59. Default—destruction.

25506. Frozen spinach. (F.D.C. No. 42965. S. Nos. 49-642/3 P.)

QUANTITY: 613 cases, 12 10-oz. pkgs. each, and 1,626 cases, 24 10-oz. pkgs. each, at Hillsboro, Oreg.

SHIPPED: 10-21-58 and 2-26-59, from Walla Walla, Wash., by Birds Eye Div., General Foods Corp.

LABEL IN PART: (Pkgs.) "Garden Fresh Brand * * * Chopped Spinach" and "Kroger Chopped Spinach."

LIBELED: 4-3-59, Dist. Oreg.

CHARGE: 402(a)(2)—when shipped, the article contained an added poisonous and deleterious substance, namely, DDT, which is unsafe within the meaning of 406 since the quantity of DDT contained on the article was greater than the tolerance prescribed by regulations for such pesticide chemical on fresh spinach.

DISPOSITION: 5-25-59. Default—destruction.

25507. Dried lima beans. (F.D.C. No. 42103. S. No. 14-004 P.)

QUANTITY: 25 cases, 24 1-lb. bags each, at Gary, Ind.

SHIPPED: 7-21-58, from North Kansas City, Mo.

LIBELED: 8-27-58, N. Dist. Ind.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 5-27-59. Consent—destruction.

25508. Dried green split peas. (F.D.C. No. 42949. S. No. 24-295 P.)

QUANTITY: 90 100-lb. bags at Los Angeles, Calif., in possession of Sunshine Specialty Products Co.

SHIPPED: 12-11-58 and 1-30-59, from Spokane, Wash.

LIBELED: 3-20-59, S. Dist. Calif.

CHARGE: 402(a)(3)—contained rodent urine and rodent excreta pellets; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 4-13-59. Consent—claimed by Sunshine Specialty Products Co. Segregated; 195 lbs. destroyed.

25509. Dried mung beans. (F.D.C. No. 42754. S. Nos. 13-054 P, 13-690 P.)

QUANTITY: 163 100-lb. bags at Chicago, Ill.

SHIPPED: 8-11-58, from Vernon, Tex.

LIBELED: 12-29-58, N. Dist. Ill.

CHARGE: 402(a) (3)—contained insects while held for sale.

DISPOSITION: 1-26-59. Consent—claimed by James Chiu and Yun T. Chao, t/a China Farm, Chicago, Ill. Reconditioned; 25 lbs. destroyed.

25510. Olives. (F.D.C. No. 42685. S. No. 14-942 P.)

QUANTITY: 9 95-lb. kegs at Cleveland, Ohio.

SHIPPED: 3-27-57, from Corning, Calif.

LIBELED: 2-5-59, N. Dist. Ohio.

CHARGE: 402(a) (3)—contained flies, fly eggs, insect-damaged and decomposed olives; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 3-11-59. Default—destruction.

25511. Pickles. (F.D.C. No. 42137. S. Nos. 25-443 P, 25-499 P.)

QUANTITY: 747 bushels at Minneapolis, Minn., in possession of Pa-Wray Pickle Co.

SHIPPED: During 1958, from Wautoma, Wis.

LIBELED: 10-13-58, Dist. Minn.

CHARGE: 402(a) (3)—contained insects and insect fragments; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 12-30-58. Consent—claimed by Pa-Wray Pickle Co. Segregated; 51 bushels destroyed.

TOMATOES AND TOMATO PRODUCTS

25512. Canned tomatoes. (F.D.C. No. 42612. S. No. 10-070 P.)

QUANTITY: 558 cases, 24 cans each, at Buffalo, N.Y.

SHIPPED: 10-13-58, from Westover, Md., by Long Brothers, Inc.

LABEL IN PART: (Can) "Iona Tomatoes Net Wt. 1 Lb."

LIBELED: 12-3-58, W. Dist. N.Y.

CHARGE: 402(a) (3)—contained fly eggs and maggots when shipped.

DISPOSITION: 1-13-59. Default—destruction.

25513. Canned tomatoes. (F.D.C. No. 42752. S. No. 32-693 P.)

QUANTITY: 400 cases, 24 cans each, at Carlstadt, N.J.

SHIPPED: 9-25-58, from Bethlehem, Md., by A. W. Sisk & Son.

LABEL IN PART: (Can) "Rialto Tomatoes Contents 1 Lb. Distributed by The Grand Union Company East Paterson, N.J."

LIBELED: 12-30-58, Dist. N.J.

CHARGE: 402(a) (3)—contained fly eggs and maggots when shipped.

DISPOSITION: 2-9-59. Default—destruction.

25514. Canned tomatoes. (F.D.C. No. 42806. S. No. 47-370 P.)

QUANTITY: 23,000 cases, 24 1-lb. cans each, at Peabody, Mass.

SHIPPED: Prior to 12-31-58, from Sanford, Va., by Bayside Canning Co.

LABEL IN PART: (Can) "Phillips Tomatoes * * * Packed by Coastal Foods Co. Division of Consolidated Foods Corporation, Cambridge, Md."

LIBELED: 1-27-59, Dist. Mass.

CHARGE: 402(a)(3)—contained fly eggs and maggots; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 2-24-59. Consent—claimed by Triangle Sales Corp., Lynn, Mass. Segregated; 16,354 cases destroyed.

25515. Canned tomatoes. (F.D.C. No. 42791. S. No. 6-047 P.)

QUANTITY: 17,825 cases, 24 #2½ size cans each, at Preston, Md.

SHIPPED: Between August and October 1958, from Cannon, Del., by Caroline Canning Co.

LIBELED: 1-14-59, Dist. Md.

CHARGE: 402(a)(3)—contained fly eggs and maggots when shipped.

DISPOSITION: 3-25-59. Consent—claimed by Caroline Canning Co. Segregated; 2,711 cases destroyed.

25516. Canned tomatoes. (F.D.C. No. 42805. S. No. 33-604 P.)

QUANTITY: 100 cases, 24 cans each, at Carlstadt, N.J.

SHIPPED: 11-13-58, from Bethlehem, Md., by A. W. Sisk & Son, a/c James L. Christopher.

LABEL IN PART: (Can) "Rialto * * * Tomatoes Contents 1 Lb. Distributed by The Grand Union Company East Paterson, N.J."

LIBELED: 2-27-59, Dist. N.J.

CHARGE: 402(a)(3)—contained fly eggs and maggots when shipped.

DISPOSITION: 4-13-59. Default—destruction.

25517. Tomato catsup. (F.D.C. No. 42708. S. No. 10-785 P.)

QUANTITY: 97 cases, 6 cans each, at Pittsburgh, Pa.

SHIPPED: 1-12-59, from Wilson, N.Y., by Wilson Canning Co.

LABEL IN PART: (Can) "Behrhorst * * * Tomato Catsup Contents 7 lbs. 8 oz. Packed for H. F. Behrhorst & Son, Inc. Pittsburgh, Pa."

LIBELED: 2-19-59, W. Dist. Pa.

CHARGE: 402(a)(3)—contained decomposed tomato material when shipped.

DISPOSITION: 3-30-59. Default—destruction.

25518. Tomato catsup. (F.D.C. No. 42567. S. Nos. 16-960 P, 49-883 P.)

QUANTITY: 62 cases, 6 cans each, at Covington, Ky.

SHIPPED: 7-21-58 and 10-31-58, from Port Clinton, Ohio, by Gypsum Canning Co.

RESULTS OF INVESTIGATION: Examination showed that the article was undergoing decomposition.

LIBELED: 12-15-58. E. Dist. Ky.

CHARGE: 402(a)(3)—contained a decomposed substance while held for sale; 403(e)(1) and (2)—when shipped, the article failed to bear a label containing the name and address of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents; and 403(g)(2)—the label

failed to bear the name of the article specified in the definition and standard of identity for tomato catsup.

DISPOSITION: 1-27-59. Default—destruction.

25519. Tomato catsup. (F.D.C. No. 42714. S. No. 10-351 P.)

QUANTITY: 240 cases, 6 cans each, at McKees Rocks, Pa.

SHIPPED: 2-3-59, from Wilson, N.Y., by Wilson Canning Co.

LABEL IN PART: (Can) "Sexton Tomato Catsup Net Weight 7 lbs. 8 Ozs. Distributed by John Sexton & Co. * * * Chicago, Ill."

LIBELED: 2-24-59, W. Dist. Pa.

CHARGE: 402(a) (3)—contained decomposed tomato material when shipped.

DISPOSITION: 3-30-59. Default—destruction.

25520. Tomato juice. (F.D.C. No. 42909. S. No. 8-118 P.)

QUANTITY: 176 ctns., 12 cans each, at Portland, Maine.

SHIPPED: 12-30-58, from Lockport, N.Y., by Lockport Canning Co.

LABEL IN PART: (Can) "IGA Tomato Juice Net Contents 1 Qt. 14 Fl. Oz. Packed for Independent Grocers Alliance Distributing Co., Chicago, Illinois."

LIBELED: 3-30-59, Dist. Maine.

CHARGE: 402(a) (3)—contained decomposed tomato material when shipped.

DISPOSITION: 4-21-59. Default—destruction.

25521. Tomato juice. (F.D.C. No. 42908. S. No. 10-524 P.)

QUANTITY: 135 cases, 12 1-qt. 14-oz. cans each, at Burlington, Vt.

SHIPPED: 2-6-59, from Silver Creek, N.Y.

LIBELED: 3-31-59, Dist. Vt.

CHARGE: 402(a) (3)—contained a decomposed substance while held for sale.

DISPOSITION: 5-25-59. Default—destruction.

25522. Tomato juice. (F.D.C. No. 42961. S. No. 10-317 P.)

QUANTITY: 350 cases, 12 cans each, at Pittsburgh, Pa.

SHIPPED: 12-11-58, from North Collins, N.Y., by Growers & Packers Cooperative Co., Inc.

LABEL IN PART: (Can) "Little Bride Brand Tomato Juice Contents 1 Qt. 14 Fl. Oz. * * * Packed by Growers & Packers Cooperative Co., Inc., North Collins, N.Y."

LIBELED: 4-1-59, W. Dist. Pa.

CHARGE: 402(a) (3)—contained decomposed tomato material when shipped.

DISPOSITION: 4-27-59. Default—destruction.

25523. Tomato paste. (F.D.C. No. 42899. S. No. 35-796 P.)

QUANTITY: 9 cases, 100 cans each, at Easton, Pa.

SHIPPED: During the summer of 1958, from Philadelphia, Pa.

LIBELED: 3-20-59, E. Dist. Pa.; libel amended 3-26-59.

CHARGE: 402(a) (3)—contained decomposed tomato material while held for sale.

DISPOSITION: 5-5-59. Default—destruction.

25524. Tomato paste. (F.D.C. No. 42798. S. No. 23-022 P.)

QUANTITY: 1,500 ctns., 6 cans each, at Vineland, N.J.

SHIPPED: 12-30-58, from Buena Park, Calif., by Uddo & Taormina Co.

LABEL IN PART: (Ctn.) "6 No. 10 Cans Progresso Brand Fancy California Tomato Paste."

LIBELED: 1-26-59, Dist. N.J.; libel amended 1-30-59.

CHARGE: 402(a)(3)—contained fly eggs and maggots; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 4-22-59. Default—destruction.

25525. Tomato paste. (F.D.C. No. 42943. S. No. 17-540 P.)

QUANTITY: 104 cases, 6 7-lb. cans each, at Jackson, Ohio.

SHIPPED: 2-27-58 and 6-17-58, from Baltimore, Md.

RESULTS OF INVESTIGATION: Examination showed that the article was undergoing chemical decomposition.

LIBELED: 3-30-59, S. Dist. Ohio.

CHARGE: 402(a)(3)—contained a decomposed substance while held for sale.

DISPOSITION: 5-4-59. Consent—claimed by Crosse & Blackwell Co., Baltimore, Md. Segregated; 61 cans destroyed.

25526. Tomato paste. (F.D.C. No. 41522. S. Nos. 74-214 M, 74-234 M.)

QUANTITY: 3,794 cases, 6 #10-size cans each, at Auburn, Wash.

SHIPPED: Between 2-4-57 and 2-6-57, from Martinez, Calif., by Martinez Food Cannery, Ltd.

LABEL IN PART: (Case) "Tomato Paste * * * 42 Lbs. Net. Martinez Food Cannery."

LIBELED: 4-21-58, W. Dist. Wash.

CHARGE: 402(a)(3)—contained insects, insect fragments, and fly eggs when shipped.

DISPOSITION: 5-18-59. Default—destruction.

25527. Tomato puree. (F.D.C. No. 42784. S. No. 36-065 P.)

QUANTITY: 95 cases, 6 #10-size cans each, at Philadelphia, Pa.

SHIPPED: 9-25-58, from Greenwich, N.J., by R. S. Watson & Son.

LABEL IN PART: (Case) "Unlabeled Tomato Puree 1.045 R. S. Watson & Son No. 1549."

LIBELED: 1-14-59, E. Dist. Pa.

CHARGE: 402(a)(3)—contained fly fragments, fly eggs, and maggots when shipped.

DISPOSITION: 1-22-59. Default—destruction.

NUTS

25528. Shelled almonds. (F.D.C. No. 42872. S. No. 56-393 P.)

QUANTITY: 59 25-lb. ctns. at Macon, Ga.

SHIPPED: 1-2-59, from Sacramento, Calif., by California Almond Growers Exchange.

LABEL IN PART: "California Shelled Almonds Blue Diamond Brand * * * Packed by California Almond Growers Exchange."

LIBELED: 3-6-59, M. Dist. Ga.

CHARGE: 402(a) (3)—contained rodent hairs; and 402(a) (4)—prepared and packed under insanitary conditions.

DISPOSITION: 3-31-59. Consent—claimed by California Almond Growers Exchange. Segregated; 6 lbs. destroyed.

25529. Shelled almonds. (F.D.C. No. 42891. S. No. 62-742 P.)

QUANTITY: 182 ctns. at Chicago, Ill.

SHIPPED: 11-23-58, from Chico, Calif., by Continental Nut Co.

LABEL IN PART: "25 Lbs. Net Weight Blue Ribbon Sliced Almonds Packed by Continental Nut Co., Chico, Calif."

LIBELED: 3-17-59, N. Dist. Ill.

CHARGE: 402(a) (3)—contained insects and insect fragments when shipped.

DISPOSITION: 4-8-59. Consent—claimed by Continental Nut Co. Segregation proved to be unsuccessful and the almonds were subsequently destroyed.

25530. Shelled almonds. (F.D.C. No. 42892. S. No. 49-330 P.)

QUANTITY: 100 ctns. at Tacoma, Wash.

SHIPPED: 12-29-58, from Sacramento, Calif., by California Almond Growers Exchange.

LABEL IN PART: "California Shelled Almonds Blue Diamond Brand * * * Net Weight 25 Lbs. Packed by California Almond Growers Exchange, Sacramento, California."

LIBELED: 3-17-59, W. Dist. Wash.

CHARGE: 402(a) (3)—contained *E. coli*; and 402(a) (4)—prepared and packed under insanitary conditions.

DISPOSITION: 4-9-59. Consent—claimed by California Almond Growers Exchange and reconditioned, resulting in the release of approximately 2,403 lbs. of nuts as fit for human consumption.

25531. Shelled pecans. (F.D.C. No. 42613. S. Nos. 24-346/7 P.)

QUANTITY: 9 28-lb. cases at Los Angeles, Calif.

SHIPPED: 9-13-58, from Las Cruces, N. Mex.

LIBELED: 12-9-58, S. Dist. Calif.

CHARGE: 402(a) (3)—contained insects while held for sale.

DISPOSITION: 1-15-59. Default—destruction.

25532. Shelled walnuts. (F.D.C. No. 42869. S. No. 49-343 P.)

QUANTITY: 8 25-lb. ctns. at Seattle, Wash.

SHIPPED: 1-26-59, from Chico, Calif., by H. Meyer Nut Co.

LABEL IN PART: (Ctn.) "California Shelled Walnuts."

LIBELED: 3-5-59, W. Dist. Wash.

CHARGE: 402(a) (3)—contained *E. coli*; and 402(a) (4)—prepared and packed under insanitary conditions.

DISPOSITION: 4-24-59. Default—destruction.

25533. Shelled walnuts. (F.D.C. No. 42801. S. No. 8-110 P.)

QUANTITY: 7 ctns. at Boston, Mass.

SHIPPED: 11-1-58, from Hollister, Calif., by Guerra Nut Shelling Co.

LABEL IN PART: "25 Lbs. Net Wt. Cal-Best Brand Bakers Pieces California Shelled Walnuts Packed by Guerra Nut Shelling Co., Hollister, Calif."

LIBELED: 1-26-59, Dist. Mass.

CHARGE: 402(a)(3)—contained *E. coli* when shipped.

DISPOSITION: 4-30-59. Default—destruction.

25534. Shelled walnuts. (F.D.C. No. 42240. S. No. 7-957 P.)

QUANTITY: 27 cases, 55 lbs. each, at Cambridge, Mass.

SHIPPED: From India.

LIBELED: 10-20-58, Dist. Mass.

CHARGE: 402(a)(3)—contained rancid and decomposed nuts while held for sale.

DISPOSITION: 2-16-59. Default—destruction.

25535. Shelled walnuts. (F.D.C. No. 42282. S. Nos. 47-341/2 P.)

QUANTITY: 440 55-lb. cases at North Grosvenor Dale, Conn.

SHIPPED: 7-19-58 and 8-18-58, from Cambridge, Mass.

LIBELED: 11-14-58, Dist. Conn.

CHARGE: 402(a)(3)—contained rancid nuts which were dark in color and had a pungent odor while held for sale.

DISPOSITION: 4-8-59. Default—delivered to a public institution, for use as animal feed.

25536. Unshelled almonds. (F.D.C. No. 42622. S. No. 26-388 P.)

QUANTITY: 18 50-lb. bags at Hopkins, Minn.

SHIPPED: 10-14-58, from Chico, Calif.

LIBELED: 12-5-58, Dist. Minn.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 12-29-58. Consent—claimed by Red Owl Stores, Inc., Hopkins, Minn. Segregated; 12 lbs. destroyed.

25537. Unshelled almonds. (F.D.C. No. 42982. S. No. 54-788 P.)

QUANTITY: 5 cases, 24 1-lb. bags each, at Scranton, Pa.

SHIPPED: 4-12-58, from outside the State of Pennsylvania.

LIBELED: 4-15-59, M. Dist. Pa.

CHARGE: 402(a)(3)—contained insects, moldy and gummy nuts, and empty shells while held for sale.

DISPOSITION: 5-20-59. Default—destruction.

25538. Unshelled almonds. (F.D.C. No. 42646. S. Nos. 10-482 P, 10-484 P.)

QUANTITY: 50 cases, 24 1-lb. boxes each, and 5 80-lb. bags, at Buffalo, N.Y.

SHIPPED: 11-26-58, from Chico, Calif.

LIBELED: 12-15-58, W. Dist. N.Y.

- CHARGE:** 402(a)(3)—contained insects, and (bags) empty shells while held for sale.
- DISPOSITION:** 12-18-58. Consent—claimed by Continental Nut Co., Chico, Calif. Segregated; 83 lbs. destroyed.
- 25539. Unshelled brazil nuts.** (F.D.C. No. 41352. S. No. 68-026 M.)
- QUANTITY:** 111 cases, 24 1-lb. bags each, at Kansas City, Mo.
- SHIPPED:** 11-29-57, from Chico, Calif., by Continental Nut Co.
- LABEL IN PART:** (Bag) "Blue Ribbon Large Brazil Nuts."
- LIBELED:** On or about 1-17-58, W. Dist. Mo.
- CHARGE:** 402(a)(3)—contained insects, decomposed nuts, and empty shells when shipped.
- DISPOSITION:** 4-1-58. Consent—claimed by Continental Nut Co. Segregated; 123 lbs. destroyed.
- 25540. Unshelled brazil nuts.** (F.D.C. No. 41590. S. Nos. 39-441 P, 39-550 P.)
- QUANTITY:** 495,000 lbs. at Chico, Calif.
- SHIPPED:** Between June and September 1957, from Brazil.
- LIBELED:** 2-24-58, N. Dist. Calif.; libel amended 4-22-58.
- CHARGE:** 402(a)(3)—contained insects, decomposed and shriveled nuts, and empty shells while held for sale.
- DISPOSITION:** 7-31-58 and 9-30-58. Consent—claimed by Continental Nut Co., Chico, Calif. Segregated; 31,164 lbs. destroyed.
- 25541. Unshelled brazil nuts.** (F.D.C. No. 42378. S. No. 44-497 P.)
- QUANTITY:** 34 cases, 24 1-lb. boxes each, at Monroe, Ga.
- SHIPPED:** 10-16-58, from New York, N.Y.
- LIBELED:** 11-26-58, M. Dist. Ga.
- CHARGE:** 402(a)(3)—contained decomposed nuts while held for sale.
- DISPOSITION:** 2-17-59. Default—destruction.
- 25542. Unshelled pecans.** (F.D.C. No. 42843. S. No. 6-058 P.)
- QUANTITY:** 29 100-lb. bags at Washington, D.C.
- SHIPPED:** On an unknown date from outside the District of Columbia.
- LIBELED:** 2-13-59, Dist. Columbia.
- CHARGE:** 402(a)(3)—contained moldy, decomposed nuts, and shriveled nuts and empty shells while held for sale.
- DISPOSITION:** 3-20-59. Default—destruction.
- 25543. Unshelled peanuts.** (F.D.C. No. 42838. S. No. 5-227 P.)
- QUANTITY:** 600 100-lb. bags at Dublin, N.C.
- SHIPPED:** Between 10-18-58 and 11-12-58, from Suffolk, Va.
- LIBELED:** 2-18-59, E. Dist. N.C.
- CHARGE:** 402(a)(3)—while held for sale, contained insects and moldy, decomposed nuts.
- DISPOSITION:** 4-24-59. Consent—claimed by Los Angeles Nut House. Efforts to recondition the article were unsuccessful; it was then denatured for use as animal feed.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE

25544. Vitamin tablets. (F.D.C. No. 42728. S. No. 10-655 P.)

QUANTITY: 452 30-tablet btls., 172 60-tablet btls., and 40 120-tablet btls., at Buffalo, N.Y.

SHIPPED: Between 5-18-56 and 8-3-56, from Hollywood, Calif.

RESULTS OF INVESTIGATION: Examination showed that the article contained approximately 75 percent of the declared amount of vitamin B₁ per tablet.

LIBELED: 3-4-59, W. Dist. N.Y.

CHARGE: 402(b)(1)—the valuable constituent, vitamin B₁, had been in part omitted or abstracted from the article while held for sale; and 403(a)—the label statement "Each * * * Tablet Contains:—Vitamin B₁—6.5 Mg." was false and misleading.

DISPOSITION: 4-2-59. Default—destruction.

25545. Vitamin tablets. (F.D.C. No. 42919. S. Nos. 47-621 P, 47-623 P.)

QUANTITY: 27 50-tablet btls. and 28 100-tablet btls. at Concord, N.H.

SHIPPED: Prior to 1-1-58, from Wellesley, Mass.

LIBELED: 4-3-59, Dist. N.H.

CHARGE: 402(b)(1)—while held for sale, the valuable constituents (50 tablet btls.), vitamin C, vitamin D, vitamin B₁, riboflavin, niacinamide, and vitamin B₁₂, and (100-tablet btls.), vitamin B₁₂, riboflavin, and vitamin C, had been in part omitted or abstracted from the article; and 403(a)—the label statements (50 tablet btls.) "Each tablet contains: * * * Vitamin D . . . 1,000 Units, Vitamin B₁ . . . 2 mg. Ascorbic Acid . . . 75 mg. * * * Niacinamide . . . 10 mg." and (100 tablet btls.) "Each tablet contains: * * * Vitamin B₂ . . . 2 mg. Vitamin B₁₂ * * * 5 mcg. Ascorbic Acid . . . 75 mg." were false and misleading.

DISPOSITION: 5-13-59. Default—destruction.

25546. Vitamin capsules. (F.D.C. No. 42826. S. No. 47-413 P.)

QUANTITY: 201 100-capsule btls. at Boston, Mass.

SHIPPED: 5-17-57 and 6-6-57, from New York, N.Y.

LIBELED: 2-11-59, Dist. Mass.

CHARGE: 402(b)(1)—while held for sale, a valuable constituent, vitamin B₁, had been in part omitted or abstracted from the article; and 403(a)—the label statement "Each Capsule Contains * * * Vitamin B₁ . . . 3,330 U.S.P. Units" was false and misleading.

DISPOSITION: 3-30-59. Default—destruction.

25547. Vitamin B complex capsules. (F.D.C. No. 42846. S. No. 47-634 P.)

QUANTITY: 300 100-capsule btls. at Boston, Mass.

SHIPPED: 8-20-57, from New York, N.Y.

LIBELED: 2-17-59, Dist. Mass.

CHARGE: 402(b)(1)—while held for sale, a valuable constituent, vitamin B₁, had been in part omitted or abstracted from the article; and 403(a)—the label statement which represented that each capsule contained 3 milligrams of vitamin B₁ was false and misleading.

DISPOSITION: 4-13-59. Default—delivered to a public institution.

25548. Avatrons vitamin tablets. (F.D.C. No. 42637. S. No. 9-440 P.)

QUANTITY: 272 30-tablet btls., 134 60-tablet btls., and 12 120-tablet btls., at Buffalo, N.Y.

SHIPPED: During 1954, from Los Angeles, Calif.

LIBELED: 12-11-58, W. Dist. N.Y.

CHARGE: 402(b)(1)—while held for sale, the valuable constituents of the article, vitamin B₁₂ and vitamin B₁, had been in part omitted or abstracted therefrom; and 403(a)—the label statement "Each Tablet Contains * * * Vitamin B₁—6.5 mg. * * * Vitamin B₁₂—4 mcg." was false and misleading.

DISPOSITION: 1-13-59. Default—destruction.

25549. Obron capsules. (F.D.C. No. 40985. S. No. 79-425 M.)

QUANTITY: 4 btls. containing a total of 700 capsules of Obron at Jersey City, N.J., in possession of Carl H. Kaplan Sales Co.

SHIPPED: Between September 1957 and November 1957, from Philadelphia, Pa.

RESULTS OF INVESTIGATION: The article consisted of physicians' samples which the consignee, Carl H. Kaplan Sales Co., had obtained from a Philadelphia pharmacy and transported to Jersey City where the capsules were repackaged and relabeled.

LIBELED: 12-2-57, Dist. N.J.

CHARGE: 403(e)—while held for sale, the label of the article failed to bear (1) the name and place of business of the manufacturer, packer or distributor, and (2) an accurate statement of the quantity of contents; 403(i)(2)—the label of the article failed to bear the common or usual name of each ingredient; and 403(j)—the article purported to be and was represented for special dietary uses by reason of its vitamin content, and its label failed to bear as required by regulations, a statement of the proportion of the minimum daily requirements for the vitamins supplied by the article when consumed in a specified quantity during a period of one day.

The libel also alleged that certain other articles were misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 5584.

DISPOSITION: 1-15-58. Default—destruction.

25550. Saflex capsules and Saflex Oil Plus. (F.D.C. No. 42263. S. Nos. 37-833/7 P.)

QUANTITY: 6 1,000-capsule btls., 36 500-capsule btls., 1,843 250-capsule btls., 1,035 100-capsule btls., and 2,523 50-capsule btls. of Saflex capsules; and 97 qt. btls., 338 pt. btls., and 293 8-oz. btls. of the Saflex Oil Plus at St. Louis, Mo.

SHIPPED: At various times, after 12-16-57, from Los Angeles, Calif., by Wm. T. Thompson Co.

LABEL IN PART: (Btl.) "Saflex Capsules with Vitamins B-6, E and Niacin. Each capsule contains 600 milligrams of Safflower Oil from Safflower Seed, the Highest Natural Source of Unsaturated Fatty Acids"; and "Thompson's Saflex Oil Plus-Safflower Oil Plus Vitamin E and Lecithin, Soya."

ACCOMPANYING LABELING: Folders and counter cards entitled "An Outstanding 'Break Through'," and window streamers entitled "It's New - It's Here."

LIBELED: 10-28-58, E. Dist. Mo.

CHARGE: 403(a)—when shipped, the labeling of the articles contained false and misleading representations that the articles were necessary and effective for special dietary use in the maintenance of low cholesterol levels.

DISPOSITION: 4-27-59. Consent—claimed by Wm. T. Thompson Co. and brought into compliance with the law.

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SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS

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¹ (25451, 25468) Injunction issued.

SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS—Continued

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Boat. <i>See</i> Racer.		General Foods Corp. <i>See</i> Birds	
Bolduc, A. L.:		Eye Div., General Foods	
frozen eggs-----	25482	Corp.	
Booth Fisheries Canadian Co.,		Giger, A., & Co.:	
Ltd.:		flour -----	25460
frozen smelts-----	25492, 25493	Grand Union Co.:	
Booth Fisheries Corp.:		canned tomatoes-----	25513, 25516
frozen smelts-----	25492, 25493	Growers & Packers Cooperative	
Bryce, F. W., Inc.:		Co., Inc.:	
frozen sole fillets-----	25495	tomato juice-----	25522
California Almond Growers Ex-		Guerra Nut Shelling Co.:	
change:		shelled walnuts-----	25533
shelled almonds-----	25528, 25530	Gypsum Canning Co.:	
Canadian Fish Producers, Ltd.:		tomato catsup-----	25518
fresh dressed whitefish-----	25486	Horvath, William:	
frozen tullibeas-----	25488	frozen eggs-----	25481
Canton Provision Co.:		Independent Food Products Co.:	
oysters-----	25498	frozen eggs-----	25480
Caroline Canning Co.:		Independent Grocers Alliance	
canned tomatoes-----	25515	Distributing Co.:	
Central Popcorn Co.:		tomato juice-----	25520
unpopped popcorn-----	25463	Johnston, Edward:	
Christopher, J. L. <i>See</i>		wheat -----	¹ 25468
Sisk, A. W. & Son.		Johnston, Paul:	
Coastal Foods Co., Div. of Con-		wheat -----	¹ 25468
solidated Foods Corp.:		Kaplan, C. H., Sales Co.:	
canned tomatoes-----	25514	Obron capsules-----	25549
Colonial Van & Storage Co.:		Kaw Grain Co., Inc.:	
rice-----	25466	wheat -----	¹ 25468
Continental Baking Co.:		Keystone Fisheries, Ltd.:	
buttermilk bread and butter-		fresh dressed whitefish-----	25487
milk enriched bread-----	¹ 25451	Kimball County Grain Coopera-	
Continental Nut Co.:		tive:	
shelled almonds-----	25529	wheat -----	25473
unshelled brazil nuts-----	25539	Konen, J. F.:	
Crouse Mills:		wheat -----	25477
wheat-----	25475	La Mars Cooperative Elevator	
Davis, S., Co.:		Co.:	
flour-----	25459	wheat -----	25479
Delaware Mushroom Cooperative		Litchville Elevator Co.:	
Association:		wheat -----	25472
canned mushrooms-----	25504	Lockport Canning Co.:	
Drewer, H. V., & Sons:		tomato juice-----	25520
oysters -----	25496	Logan Grocer Co.:	
Dunbar Grain Co.:		cornmeal and flour-----	25454
wheat -----	25474	Long Brothers, Inc.:	
		canned tomatoes-----	25512

¹ (25451, 25468); Injunction issued.

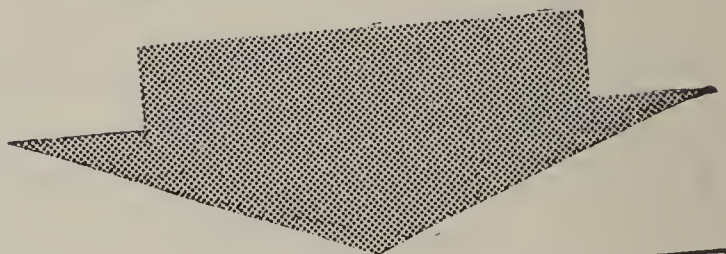
SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS—Continued

	N.J. No.		N.J. No.
Lynch, Rupert:		Sunshine Specialty Products Co.:	
unpopped popcorn-----	25463	dried green split peas-----	25508
Martinez Food Cannery, Ltd.:		Superior Egg Co.:	
tomato paste-----	25526	frozen eggs-----	25485
Myer, H., Nut Co.:		Superior Egg, Inc.:	
shelled walnuts-----	25532	frozen eggs-----	25485
Modern Egg Products:		Superior Frozen Foods:	
frozen eggs-----	25483	frozen eggs-----	25484
National Fish Div. of National		Terminal Warehouse Co.:	
Sea Products, Ltd.:		unpopped popcorn-----	25462
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Pa-Wray Pickle Co.:		Saflex capsules and Saflex	
pickles-----	25511	Oil Plus-----	25550
Pierce Quality House. <i>See</i>		Uddo & Taormina Co.:	
Bolduc, A. L.		tomato juice-----	25524
Racer (boat):		Valley View Packing Co., Inc.:	
frozen haddock fillets-----	25489	dried apricots-----	25499
Rockham Farmers Elevator:		Victoria Elevator:	
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Ryle Elevator:		Victoria Elevator Co.:	
wheat-----	25469	wheat-----	25471
Ryola Co.:		Watson, R. S., & Son:	
Ryola Crisp rye-----	25452	tomato puree-----	25527
Sampson Canning Co.:		Waynesboro Grocery Co.:	
canned cut green beans-----	25502	flour-----	25456
San Juan Fishing & Packing Co.:		Western Warehouse Co.:	
frozen halibut steaks-----	25490	flour-----	25458
Sea Pak Corp.:		West Foods, Inc.:	
frozen breaded fish sticks----	25494	canned mushrooms-----	25503
Sexton, John, & Co.:		Wigler's Bakery, Inc.:	
tomato catsup-----	25519	flour-----	25457
Sisk, A. W., & Son:		Wilson Canning Co.:	
canned tomatoes-----	25513, 25516	tomato catsup-----	25517, 25519
Smith, H. A.:			
oysters-----	25498		

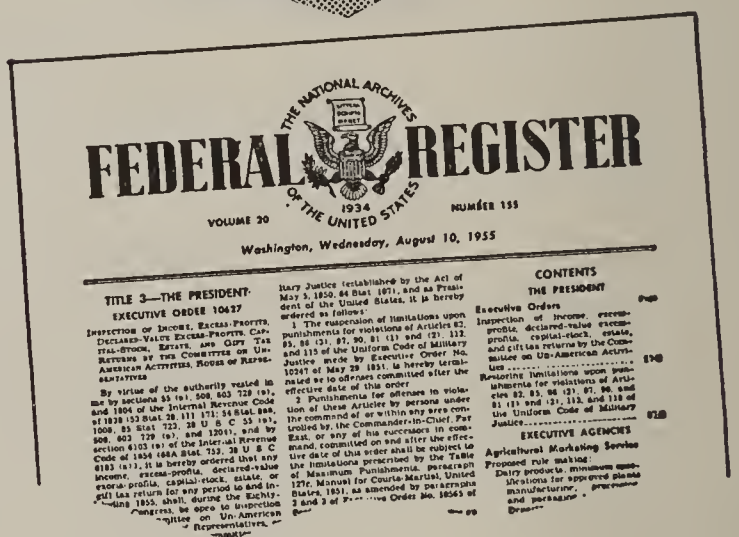
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U.S. Department of Health, Education, and Welfare

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

25551-25650

FOODS

The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were adulterated or misbranded within the meaning of the Act when introduced into and while in interstate commerce or while held for sale after shipment in interstate commerce, and oleomargarine sold in the same state in which produced. These cases involve (1) seizure proceedings in which decrees of condemnation were entered by default or by consent; (2) criminal proceedings which were terminated upon pleas of guilty or nolo contendere; and (3) injunction proceedings terminated upon the entry of a permanent injunction by consent or by denial of the injunction after a hearing. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the criminal and injunction proceedings are against the *firms* or *individuals* charged to be responsible for violations.

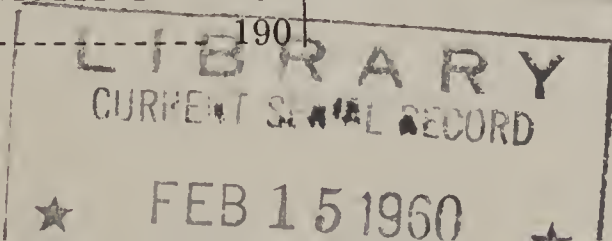
Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D.C., *January 6, 1960*

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**SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN VIOLATIONS
REPORTED IN F.N.J. NOS. 25551-25650**

Adulteration, Section 402(a) (1), the article contained an added poisonous or deleterious substance which may have rendered it injurious to health; Section 402(a) (2), the article contained an added poisonous or deleterious substance which was unsafe within the meaning of Section 406; Section 402(a) (3), the article consisted in part of a filthy or decomposed substance, or it was otherwise unfit for food; Section 402(a) (4), the article had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth; Section 402(b) (1), a valuable constituent had been in whole or in part omitted or abstracted from the article; Section 402(b) (2), a substance had been substituted wholly or in part for the article; Section 402(b) (4), a substance had been added to the article or mixed or packed therewith so as to increase its bulk or weight or reduce its quality; Section 406(a), a poisonous or deleterious substance was added to food when such substance was not required in the production thereof and could have been avoided by good manufacturing practice.

Misbranding, Section 403(a), the labeling of the article was false and misleading; Section 403(b), the article was offered for sale under the name of another food; Section 403(e), the article was in package form and it failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of contents; Section 403(f), a word, statement, or other information required by the Act to appear on the label of the article was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; Section 403(h) (1), the article purported to be and was represented as a food for which a standard of quality had been prescribed by regulations and its quality fell below such standard and its label failed to bear a statement that it fell below such standard; Section 403(i), the article was not subject to the provisions of Section 403(g) and (1) its label failed to bear the common or usual name of the food; and (2), the article was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient; Section 403(j), the article purported to be and was represented for special dietary uses, and its label failed to bear such information concerning its vitamin, mineral, and other dietary properties as the Secretary determined to be and by regulation prescribed as necessary in order fully to inform purchasers as to its value for such uses.

BEVERAGES AND BEVERAGE MATERIAL*

25551. Tea. (F.D.C. No. 42917. S. No. 57-575 P.)

QUANTITY: 2 unlabeled chests, 150-lb. total, at Long Island City, N.Y.

SHIPPED: On an unknown date, from outside the United States.

RESULTS OF INVESTIGATION: Examination of the article disclosed an oily odor and partially spent leaves. When brewed, a thin oil-like film formed on top; the brew had an odor resembling the odor of burlap; and the article was unpalatable and unfit for food.

*See also Nos. 25604, 25605.

LIBELED: 4-6-59, E. Dist. N.Y.

CHARGE: 402(b)(1)—while held for sale, a valuable constituent, namely, tea, had been in whole or in part abstracted from the article; and 402(a)(3)—consisted of a substance which was unfit for food.

DISPOSITION: 5-7-59. Default—destruction.

25552. Chicory. (F.D.C. No. 42907. S. No. 57-719 P.)

QUANTITY: 10 90-lb. bags at Flushing, N.Y.

SHIPPED: 12-2-58, from Port Huron, Mich., by E. B. Muller & Co.

LABEL IN PART: "Roasted and Ground Chicory EMB E. B. Muller & Co. Port Huron, Mich. 3 X Mullers Chicory."

LIBELED: 4-6-59, E. Dist. N.Y.

CHARGE: 402(a)(3)—contained insect fragments and rodent hairs; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 5-7-59. Default—destruction.

25553. Cherry concentrate. (F.D.C. No. 42323. S. No. 31-817 P.)

QUANTITY: 37 55-gal. drums at New Brunswick, N.J.

SHIPPED: From Yugoslavia to Marlboro, N.J., and from there to New Brunswick, N.J., where the article was placed into the above-mentioned drums.

LIBELED: 12-1-58, Dist. N.J.

CHARGE: 402(a)(3)—contained fly eggs, insect fragments, and a decomposed substance when shipped.

DISPOSITION: 12-29-58. Consent—claimed by Monte Carlo Wine Industries, Ltd., New Brunswick, N.J., and converted into distilled spirits.

CEREALS AND CEREAL PRODUCTS

BAKERY PRODUCTS

25554. Bread and cookies. (F.D.C. No. 41174. S. Nos. 60-870/1 M, 60-878 M.)

INFORMATION FILED: 6-18-58, Dist. Mass., against Elm Farm Foods Co., a corporation, t/a J. B. Blood Co., Lynn, Mass.

SHIPPED: 8-21-57 and 8-22-57, from Massachusetts to Rhode Island.

LABEL IN PART: (Pkg) "SLICED HOME MADE ENRICHED BREAD HILLCREST FOOD KITCHENS LYNN, MASS. WEIGHT 1 LB. 1 OZ."; "Beehive GIANT LOAF WHITE ENRICHED BREAD FULL POUND AND ONE HALF BEEHIVE BAKERY, LYNN, MASS."; and "Beehive HERMITS WT. 12 OZ. BEEHIVE BAKERY LYNN, MASS."

CHARGE: 402(a)(3)—contained rodent hair fragments and insect parts; and 402(a)(4)—prepared under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 2-20-59. \$100 fine.

25555. Fruit cake. (F.D.C. No. 42219. S. No. 4-811 P.)

QUANTITY: 17 ctns., 12 2-lb. tins each, and 4 ctns., 6 5-lb. tins each, at Arlington, Va.

SHIPPED: 9-9-58, from Philadelphia, Pa.

LIBELED: 10-14-58, E. Dist. Va.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 1-14-59. Consent—destruction.

FLOUR*

25556. Flour. (F.D.C. No. 42160. S. Nos. 39-023/5 P.)

INFORMATION FILED: 9-19-58, N. Dist. Calif., against the Golden Crust Bakery, a partnership, t/a Valley Queen Bakery, Watsonville, Calif., and Nicholas G. Lerek, a partner.

ALLEGED VIOLATIONS: Between 12-23-57 and 1-28-58, the defendants caused quantities of flour, while held for sale after shipment in interstate commerce, to be held in a building that was accessible to, and infested with, insects and rodents, and to be exposed to contamination by insects and rodents, which acts resulted in the article being adulterated.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 11-5-58. Each defendant fined \$500.

25557. Flour, rice, and batter mix. (F.D.C. No. 41752. S. Nos. 39-317 M, 77-197 M, 77-201 M, 77-399 M, 2-262 P.)

INFORMATION FILED: 12-8-58, N. Dist. Ga., against Lanier Bros., a partnership, Atlanta, Ga., Emery S. Lanier, Jr., manager, and W. H. Childress, warehouse manager of the firm.

SHIPPED: Between 7-26-56 and 1-16-58, the defendants caused quantities of flour, rice, and batter mix, while held for sale after shipment in interstate commerce, to be placed in a building accessible to, and infested with, insects and rodents and to be exposed to contamination by insects and rodents, which acts resulted in the articles being adulterated.

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 1-21-59. Childress—was fined \$50; and Emery Lanier, Jr.—was placed on probation for 2 years.

25558. Flour. (F.D.C. No. 42146. S. Nos. 28-942/3 P.)

QUANTITY: 682 25-lb. bags at Tupelo, Miss., in possession of L. P. McCarty & Son.

SHIPPED: 8-12-58, from Mt. Vernon, Ind.

LIBELED: 10-22-58, N. Dist. Miss.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 1-29-59. Default—destruction.

25559. Flour. (F.D.C. No. 42332. S. No. 27-501 P.)

QUANTITY: 800 50-lb. bags, 200 bales, 2 25-lb. bags each, 75 bales, 5 10-lb. bags each, and 75 bales, 10 5-lb. bags each, at Decorah, Iowa.

SHIPPED: 10-2-58, from Minneapolis, Minn.

*See also Nos. 25567, 25573, 25578.

LIBELED: 10-21-58, N. Dist. Iowa.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 11-11-58. Consent—Claimed by Chicago, Milwaukee, St. Paul & Pacific Railroad Co., Chicago, Ill. Segregated; 23,570 lbs. converted into animal feed.

25560. Flour. (F.D.C. No. 42300. S. No. 32-271 P.)

QUANTITY: 140 100-lb. bags at Summit, N.J., in possession of Summit Bakery.

SHIPPED: 8-19-58, from Mankato, Minn.

LIBELED: 11-13-58, Dist. N.J.

CHARGE: 402(a)(3)—contained insects, rodent urine, and rodent excreta; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 1-12-59. Default—destruction.

25561. Flour. (F.D.C. No. 42336. S. No. 26-381 P.)

QUANTITY: 40 50-lb. bags at Wausau, Wis., in possession of Wisconsin Distributing Co.

SHIPPED: 9-2-58, from Minneapolis, Minn.

LIBELED: 10-22-58, W. Dist. Wis.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 11-26-58. Default—consumption by animals.

25562. Flour. (F.D.C. No. 42356. S. Nos. 29-152/3 P.)

QUANTITY: 176 25-lb. bags at Greenville, Ala.

SHIPPED: 9-18-58, from Shawnee, Okla.

LIBELED: 11-10-58, M. Dist. Ala.

CHARGE: 402(a)(3)—contained rodent urine while held for sale.

DISPOSITION: 1-2-59. Default—destruction.

25563. Flour, rolled oats, and sausage seasoning. (F.D.C. No. 42204. S. Nos. 17-204/5 P, 17-206 P, 17-207 P.)

QUANTITY: 60 25-lb. bags of flour, 11 cases, 12 2-lb. 8 oz. pkgs. each of oats, and 10 cases, 12 10-oz. pkgs. each, of sausage seasoning, at Williamsburg, Ky., in possession of Renfro Supply Co.

SHIPPED: Between 10-31-56 and 7-25-58, from Abilene and Salina, Kans., Cedar Rapids, Iowa, and Knoxville, Tenn.

LIBELED: 9-24-58, E. Dist. Ky.

CHARGE: 402(a)(3)—contained (flour and rolled oats) insects, and (sausage seasoning) mold; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 10-20-58. Default—destruction.

25564. Flour. (F.D.C. No. 42180. S. Nos. 29-106/8 P.)

QUANTITY: 34 25-lb. bags, and 154 bales, 5 10-lb. bags each, at Mobile, Ala., in possession of Autry Greer & Sons, Inc.

SHIPPED: Between 4-1-58 and 7-30-58, from Chattanooga, Tenn.

LIBELED: 9-9-58, S. Dist. Ala.

CHARGE: 402(a)(3)—contained insects and insect larvae; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 12-19-58. Default—destruction.

25565. Flour and batter mix. (F.D.C. No. 42290. S. Nos. 15-544 P, 15-545 P.)

QUANTITY: 9 100-lb. bags, and 4 cases, 10 5-lb. ctns. each, at Dayton, Ohio, in possession of Peerless Food Co.

SHIPPED: 9-5-58 and 9-19-58, from Chicago, Ill., and St. Louis, Mo.

LIBELED: 11-18-58, S. Dist. Ohio; libel amended on or about 11-24-58.

CHARGE: 402(a)(3)—the batter mix contained insects; and 402(a)(4)—the batter mix and flour were held under insanitary conditions.

DISPOSITION: 12-18-58. Default—destruction.

25566. Flour. (F.D.C. No. 42350. S. No. 10-128 P.)

QUANTITY: 13 100-lb. bags and 1 50-lb. drum at Rochester, N.Y.

SHIPPED: 2-24-58, from New Ulm, Minn.

LIBELED: 11-5-58, W. Dist. N.Y.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 12-24-58. Default—destruction.

MACARONI AND NOODLE PRODUCTS*

25567. Egg noodles and flour. (F.D.C. No. 41186. S. Nos. 55-387 M, 65-115 M.)

INFORMATION FILED: 5-6-58, S. Dist. Ohio, against Baker Bros., a partnership, Zanesville, Ohio, and Fred W. Baker, partner.

ALLEGED VIOLATION: Between 7-3-57 and 11-5-57, while quantities of egg noodles and flour were being held for sale after shipment in interstate commerce, the defendants caused the articles to be placed in a building that was accessible to insects, mice, and rats, and to be exposed to contamination by insects, mice, and rats, which acts resulted in the articles being adulterated.

CHARGE: 402(a)(3)—the egg noodles contained insects and the flour contained rodent excreta and urine; and 402(a)(4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 8-19-58. Fine of \$500 against each defendant.

25568. Egg noodles, dried black-eyed peas, and oleomargarine. (F.D.C. No. 41997. S. Nos. 16-965/7 P.)

QUANTITY: 13 cases, 12 12-oz. pkgs. each, of egg noodles, 2 100-lb. bags of dried black-eyed peas, and 4 cases, 30 1-lb. pkgs. each, of oleomargarine, at Cincinnati, Ohio.

SHIPPED: Between 9-24-57 and 6-13-58 (noodles), from Chicago, Ill.; 6-2-58 (peas), from Denver, Colo.; and (oleomargarine), sold 1-21-58, at Cincinnati, Ohio.

LIBELED: 8-21-58, S. Dist. Ohio.

CHARGE: 402(a)(3)—noodles and black-eyed peas contained insects, insect fragments, and insect excreta while held for sale; the oleomargarine was sold in the same state in which it was produced and, while held for further sale, it contained moldy oleomargarine.

*See also No. 25582.

DISPOSITION: 8-29-58. Consent—delivered to a local institution for use as animal feed.

25569. Egg noodles. (F.D.C. No. 42343. S. No. 28-452 P.)

QUANTITY: 40 cases, 24 8-oz. bags each, at Austin, Tex.

SHIPPED: 9-23-58, from St. Louis, Mo., by Kientzel Noodle Co., Inc.

LABEL IN PART: (Bag) "Ma's Brand Pure Egg Noodles."

LIBELED: 10-28-58, W. Dist. Tex.

CHARGE: 402(a)(3)—contained insects and rodent hair fragments; and 402(a)(4)—prepared under insanitary conditions.

DISPOSITION: 1-16-59. Default—destruction.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS*

25570. Wheat. (Inj. No. 341.)

COMPLAINT FOR INJUNCTION FILED: 7-31-58, Dist. Kans., against Rodney Milling Co., a corporation, Atchison, Kans., and Earl Thompson, an individual.

CHARGE: The complaint alleged that the defendants were engaged in operating a grain elevator for the storage and distribution of wheat for human consumption, and that they had been and were introducing and causing to be introduced into interstate commerce, wheat which was adulterated within the meaning of 402(a)(3) and (4) by reason of the presence therein of filth, and by reason of holding the wheat under insanitary conditions at the defendants' grain elevator at Atchison, Kans.

It was alleged further that the insanitary conditions resulted from, and consisted of, mice about several of the bins, and mice excreta pellets, insects and insect larva in the wheat; mice pellets and mice tracks around all walls, and in various sections of the elevator; and employees sweeping mice excreta pellets onto the wheat in the storage bins.

DISPOSITION: On 8-8-58, the defendants having consented, the court entered a decree permanently enjoining and restraining the defendants from introducing into interstate commerce, wheat for human consumption which was adulterated within the meaning of 402(a)(3) and (4). The decree also enjoined the defendants against introducing into interstate commerce, any wheat for human consumption held at defendant's grain elevator at Atchison, Kans., unless and until the following acts were done:

(a) the elevator was thoroughly cleaned, renovated, and rendered suitable for the storage of wheat for human consumption; all rodent and insect filth was removed from the elevator; the means of ingress and egress of the elevator by rodents was closed; and any similar insanitary conditions which might result in the contamination of wheat for human consumption while held in the elevator were eliminated;

(b) all the wheat which was on hand in the elevator at the time the elevator sections were cleaned, renovated, and rendered suitable for the storage of food for human consumption was destroyed, denatured for use as animal feed, or cleaned and otherwise reconditioned under the supervision of a representative of the Food and Drug Administration and thus brought into compliance with the provisions of the Act, with all costs of supervision to be borne by the defendants; and

*See also Nos. 25557, 25563, 25565, 25608.

(c) an inspection was made of the defendants' elevator by a representative of the Food and Drug Administration and a report made to the court showing that the insanitary conditions no longer existed, and that the wheat described in paragraph (b), above, had been destroyed, denatured, or brought into compliance with the law as provided in such paragraph.

The decree further provided that nothing should prevent the introduction of a portion of the wheat into interstate commerce, after it had been cleaned, reconditioned, and brought into compliance with the law under the supervision of a representative of the Food and Drug Administration.

25571. Unpopped popcorn. (F.D.C. No. 42324. S. Nos. 25-451/2 P.)

QUANTITY: 274 cases, 12 2-lb. bags each, and 124 cases, 24 1-lb. bags each, at Hopkins, Minn.

SHIPPED: 9-17-58, from Schaller, Iowa, by Central Popcorn Co.

LABEL IN PART: (Bag) "Bang-O Brand White Hulless Popcorn * * * Packed By Central Popcorn Co., Schaller, Iowa."

LIBELED: 10-21-58, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent urine, rodent- and insect-gnawed kernels and rodent pellets; and 402(a)(4)—prepared under insanitary conditions.

DISPOSITION: 12-5-58. Default—consumption by animals.

25572. Unpopped popcorn. (F.D.C. No. 42347. S. No. 36-718 P.)

QUANTITY: 33 100-lb. bags at Memphis, Tenn., in possession of Donelson & Poston, Inc.

SHIPPED: 11-29-57, from Murray, Ky.

LIBELED: 11-3-58, W. Dist. Tenn.

CHARGE: 402(a)(3)—contained insects, insect parts, and rodent pellets; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 11-14-58. Default—consumption by animals.

25573. Rye meal, bran, flour. (F.D.C. No. 42211. S. Nos. 8-029/40 P.)

QUANTITY: 351 100-lb. bags of flour, 8 100-lb. bags of rye meal, and 35 50-lb. bags of bran, at Cambridge, Mass., in possession of Allied Bakers Supply, Inc.

SHIPPED: Between 1-10-58 and 9-3-58, from St. Paul, Minn.; Buffalo, N.Y.; Elizabeth, N.J.; and Sheridan, Wyo.

LIBELED: 10-1-58, Dist. Mass.

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 10-20-58. Consent—claimed by Allied Bakers Supply, Inc. and denatured.

25574. Corn chips. (F.D.C. No. 42286. S. Nos. 14-447/53 P.)

QUANTITY: 345 cases, 48 bags each, 305 cases, 12 bags each, and 122 cases, each containing 12 pkgs. of 6 bags each, at Atlanta, Ga.

SHIPPED: 10-13-58, from Chicago, Ill. This was a return shipment.

LABEL IN PART: (Bag & pkg.) "Filler's * * * Tor-Tos Corn Chips * * * Net Weight 2 Ozs. [or "7 Ozs.," "1 Oz.," "6¼ Ozs.,"] Mfg. By Filler Products, Inc."

RESULTS OF INVESTIGATION: Examination showed that the various bags and packages of the article were from 3.52 percent to 16.43 percent short weight.

LIBELED: 11-7-58, N. Dist. Ga.

CHARGE: 403(e) (2)—the article failed to bear a label containing an accurate statement of the quantity of contents when shipped.

DISPOSITION: 1-15-59. Default—destruction.

25575. Unpopped popcorn and cake mix. (F.D.C. No. 42252. S. Nos. 17-571/5 P.)

QUANTITY: 13 ctns., 24 1-lb. bags each, and 20 ctns., 12 2-lb. bags each, of unpopped popcorn; and 19 ctns., 12 1-lb. 3-oz. pkgs. each, of cake mix, at Danville, Ky.

SHIPPED: The popcorn was shipped on 9-10-58, from Watseka, Ill., and the cake mix was shipped on or before 1-1-57, from New York, N.Y.

LIBELED: 10-27-58, E. Dist. Ky.

CHARGE: 402(a) (3)—contained insects while held for sale.

DISPOSITION: 12-6-58. Default—the popcorn was converted into animal feed, and the cake mix was destroyed.

25576. Farina. (F.D.C. No. 42335. S. No. 27-025 P.)

QUANTITY: 100,000 lbs. at Minneapolis, Minn.

SHIPPED: 9-24-58, from Topeka, Kans., by Ismert-Hincke Milling Co.

LIBELED: 10-24-58, Dist. Minn.

CHARGE: 402(a) (3)—contained insects; and 402(a) (4)—prepared under insanitary conditions.

DISPOSITION: 11-10-58. Consent—claimed by Hathaway Industries, Inc., t/a Ismert-Hincke Milling Co., and converted into animal feed.

25577. Rice. (F.D.C. No. 42316. S. No. 43-912 P.)

QUANTITY: 44 25-lb. bags at Lake City, S.C., in possession of W. Lee Flowers & Co.

SHIPPED: 8-14-58, from Stuttgart, Ark.

LIBELED: 11-25-58, E. Dist. S.C.

CHARGE: 402(a) (3)—contained insects; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 1-20-59. Default—destruction.

25578. Rice and flour. (F.D.C. No. 42511. S. Nos. 43-916/8 P, 43-919 P.)

QUANTITY: 9 25-lb. bags, and 55 10-lb. bags of rice; and 50 5-lb. bags of flour, at Florence, S.C., in possession of Cash & Carry Warehouse #1.

SHIPPED: (Rice) on unknown dates, from Stuttgart, Ark., and (flour) on 7-9-58, from Monroe, N.C.

LIBELED: 12-1-58, E. Dist. S.C.

CHARGE: 402(a) (3)—contained insects and (all lots except flour) rodent urine; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 1-20-59. Default—destruction.

25579. Rice. (F.D.C. No. 42284. S. Nos. 2-357/8 P, 44-286/8 P.)

QUANTITY: 44 bales, 20 3-lb. bags each, and 1 bale, containing 30 2-lb. bags, at Stuttgart, Ark.

SHIPPED: 10-15-58, from Valdosta, Ga., by Turpentine & Rosin Factors, Inc.

LIBELED: 11-17-58, E. Dist. Ark.

CHARGE: 402(a)(3)—when shipped, the article contained insects and insect excreta; and 402(a)(4)—had been held under insanitary conditions.

DISPOSITION: 3-3-59. Consent—claimed by Producers Rice Mill, Inc., Stuttgart, Ark. Segregated; 15 lbs. destroyed.

25580. Shrimp breeding, batter mix, and shrimp dip. (F.D.C. No. 41936. S. Nos. 2-908/9 P, 2-911/15 P.)

QUANTITY: 41 50-lb. bags of shrimp breeding, 24 100-lb. bags and 120 50-lb. bags of batter mix, and 62 25-lb. bags of shrimp dip at St. Simons Island, Ga., in possession of Sea Pak Corp.

SHIPPED: Between 3-14-58 and 6-4-58, from Jamaica, N.Y., and Chicago, Ill.

LIBELED: 7-24-58, S. Dist. Ga.

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 8-8-58. Consent—denatured for use as animal feed.

25581. Corn muffin mix. (F.D.C. No. 42237. S. Nos. 37-618 P, 38-609 P.)

QUANTITY: 55 cases, 24 boxes each, at St. Louis, Mo., in possession of Soll-Madden Salvage Co.

SHIPPED: Between 7-3-58 and 9-17-58, from New Brunswick, N.J., and Indianapolis, Ind.

LIBELED: 10-23-58, E. Dist. Mo.

CHARGE: 402(a)(3)—contained insects and insect larvae; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 1-13-59. Default—destruction.

25582. Corn muffin mix, unpopped popcorn, hot roll mix, piecrust mix, barley, and egg noodles. (F.D.C. No. 42213. S. Nos. 8-016/20 P, 8-161 P.)

QUANTITY: 5 50-lb. bags of corn muffin mix; 6 100-lb. bags of unpopped popcorn; 5 cases, 6 5-lb. bags each, of hot roll mix; 6 cases, 6 5-lb. bags each, of piecrust mix; 5 cases, 24 1-lb. pkgs. each, of barley; and 6 cases, 12 12-oz. pkgs. each, of egg noodles, at New London, Conn., in possession of New London Paper & Supply Co.

SHIPPED: Between 3-21-58 and 8-19-58, from New York, N.Y.; Ellicott City, Md.; Huntington, Ind.; Marcellus Falls, N.Y.; and Long Island City, N.Y.

LIBELED: 10-7-58, Dist. Conn.

CHARGE: 402(a)(3)—contained insects; and (hot roll mix) 402(a)(4)—held under insanitary conditions.

DISPOSITION: 1-9-59. Default—delivered to a Federal institution, for use as animal feed.

CHOCOLATE PRODUCTS, CONFECTIONERY, AND SIRUP

CHOCOLATE AND COCOA

25583. Chocolate Flo'z. (F.D.C. No. 42527. S. No. 42-218 P.)

QUANTITY: 32 cases, 24 cans each, at Seattle, Wash.

SHIPPED: 10-20-58, from Iola, Kans., by Sifers Chocolate Syrup Co., Inc.

LABEL IN PART: (Can) "Sifers Chocolate Flo'z * * * Made with Real Chocolate Sifers Chocolate Syrup Co., Inc., Iola, Kansas."

LIBELED: On or about 12-1-58, W. Dist. Wash.

CHARGE: 402(b)(1)—when shipped, the valuable constituent, namely, chocolate, had been in part omitted or abstracted from the article; 402(b)(2)—a sirup consisting of cocoa, sugar, and water had been substituted in whole or in part for chocolate sirup; and 403(a)—the name of the article "Chocolate Flo'z" and the label statement "Made with Real Chocolate" were false and misleading.

DISPOSITION: 5-18-59. Default—destruction.

25584. Cocoa beans. (F.D.C. No. 42926. S. No. 57-573 P.)

QUANTITY: 22 bags, 100 to 105 lbs. each, at Brooklyn, N.Y.

SHIPPED: On an unknown date, from outside the United States.

LIBELED: 4-9-59, E. Dist. N.Y.

CHARGE: 402(a)(3)—contained moldy cocoa beans while held for sale.

DISPOSITION: 5-7-59. Default—destruction.

CONFECTIONERY

25585. Candy. (F.D.C. No. 41726. S. Nos. 6-382 P, 6-620 P.)

INFORMATION FILED: 12-16-58, Dist. Mass., against New England Confectionery Co., a corporation, Cambridge, Mass.

SHIPPED: Between 12-10-57 and 1-16-58, from Massachusetts to Maine and New Hampshire.

LABEL IN PART: (Pkg.) "Necco SKY BAR Necco 4 in 1 SKY BAR Net Weight 1 Ounce Manufactured by Necco - Cambridge, Mass."

CHARGE: 403(e)(2)—the article failed to bear a label containing an accurate statement of the quantity of contents (the packages of the article contained less than 1 ounce).

PLEA: Guilty.

DISPOSITION: 2-16-59. \$500 fine.

25586. Candy. (F.D.C. No. 42880. S. No. 57-716 P.)

QUANTITY: 31 ctns., 48 boxes each, at Newark, N. J.

SHIPPED: 1-22-59 and 1-30-59, from Philadelphia, Pa., by Louis Segal Candy Co.

LABEL IN PART: (Box) "#103 Fruit & Nut Egg ½ lb. Distributed by Valerie Sweets, Newark, N.J."

LIBELED: 3-11-59, Dist. N.J.

CHARGE: 402(a)(3)—contained insect fragments; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 4-13-59. Default—destruction.

SUGAR AND SIRUP

25587. Sorghum molasses. (F.D.C. No. 42153. S. No. 28-069 P.)

INFORMATION FILED: 9-11-58, E. Dist. Tex., against C. B. Daniels, Sulphur Springs, Tex.

LABEL IN PART: (Can) "SORGHUM MOLASSES Net Contents 4½ lbs. Sold and Guaranteed By C. B. DANIELS."

ALLEGED VIOLATION: On 1-25-58, while a number of unlabeled cans of molasses were being held for sale after shipment in interstate commerce, the defendant caused the above labels to be affixed to the cans, which act resulted in the molasses becoming adulterated and misbranded.

CHARGE: 402(b)(2)—a mixture of sorghum and partially inverted sugar syrup had been substituted for sorghum, which the article was represented to be while held for sale; 403(a)—the label statement "Sorghum Molasses" was false and misleading; 403(b)—the article was offered for sale under the name of another food, namely, sorghum; and 403(i)(2)—the label failed to bear the common or usual name of each ingredient.

PLEA: Guilty.

DISPOSITION: 9-15-58. Fine of \$200.

25588. Sorghum sirup. (F.D.C. No. 42168. S. Nos. 36-472 P, 36-686 P.)

INFORMATION FILED: 12-15-58, E. Dist. Ill., against Jack Anderson, Olmsted, Ill.

SHIPPED: 3-4-58 and 4-14-58, from Illinois to Missouri.

LABEL IN PART: (Can) "Good Old Country SORGHUM Made From Pure Cane Juice - 100 Per Cent PURE Made For And Sold By JACK ANDERSON Olmstead, Illinois Net Weight 4½ lbs."

CHARGE: 402(b)(2)—a substance consisting of a mixture of sorghum and inverted sugar had been substituted for sorghum; 403(a)—the label statement "SORGHUM Made From Pure Cane Juice - 100 Per Cent PURE" was false and misleading; 403(b)—the article was offered for sale under the name of another food, namely, sorghum; and 403(i)(2)—the article failed to bear a label containing the common or usual name of each ingredient.

PLEA: Guilty.

DISPOSITION: 12-16-58. \$100 fine, plus costs.

25589. Sugar and black raspberry puree. (F.D.C. No. 42018. S. Nos. 64-354 M, 84-959 M, 85-221 M.)

INDICTMENT RETURNED: 10-27-58, W. Dist. Pa., against Sunshine Packing Corp. of Pennsylvania, North East, Pa., and Fred L. Rahal, president, and Arthur Kershaw, vice-president and plant manager.

ALLEGED VIOLATION: Between 5-21-56 and 11-22-57, the defendants caused quantities of sugar while held for sale after shipment in interstate commerce, to be held in a building that was accessible to rodents and to be exposed to contamination by rodents, which act resulted in the article being adulterated.

In addition, on 11-23-57, the defendants caused a number of cans of black raspberry puree, which was adulterated, to be shipped from Pennsylvania to Illinois.

CHARGE: 402(a)(3)—the sugar contained rodent excreta, rodent hairs, and rodent urine, and the black raspberry puree contained shrew hairs; and 402-(a)(4)—the sugar was held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 5-25-59. Corporation—\$1,000 fine and costs; Rahal—\$600 fine; Kershaw—\$400 fine.

FEEDS AND GRAINS

25590. Alfalfa meal. (F.D.C. No. 42156. S. Nos. 17-551/3 M, 63-428 M, 72-039/41 M, 422 P, 11-381 P.)

INFORMATION FILED: 9-26-58, N. Dist. Ohio, against Toledo Alfalfa Mills, a partnership, East Toledo, Ohio, Cummings Schooler Co., a partnership, Toledo, Ohio, and Rolland Turnow, partner in Toledo Alfalfa Mills.

SHIPPED: Between 7-8-57 and 1-7-58, nine shipments from Ohio to Maryland and Indiana.

LABEL IN PART: (Bag) "VIT-A-GREEN Supreme 17/27 Leafy Irish Brand Pure Dehydrated Alfalfa Meal * * * 50 Lbs. Net Analysis Crude Protein, not less than 17.00% Crude Fat, not less than 1.75% Crude Fiber, not more than 27.00%"; or "VIT-A-GREEN Supreme 17/27 Leafy Irish Brand 1% Animal Fat Added * * * Analysis Crude Protein, not less than 17.00% Crude Fat, not less than 1.75% Crude Fiber, not more than 27.00% 50 Lbs."; or "17/27 * * * Alfalfa Meal Shamrock Brand 50 Lbs. Net. Analysis Crude Protein, not less than 17.00% Crude Fat, not less than 1.75% Crude Fibre, not more than 27.00%"; or "Shamrock Brand Blended Dehydrated and Sun-cured Alfalfa Meal 1% Animal Fat Added * * * Analysis Crude Protein, not less than — 17.00% Crude Fat, not less than — 1.75% Crude Fibre, not more than — 27.00% 50 Lbs. Net. Alfalfa Meal"; or "Vit-A-Green Supreme 17/27 Leafy Irish Brand Dehydrated Alfalfa Meal 1% Animal Fat."

CHARGE: 402(a) (2)—the article, when shipped, contained an added deleterious substance, mineral oil, which is unsafe within the meaning of 406(a) since it is a substance not required in the production of alfalfa meal and can be avoided by good manufacturing practices; 402(b) (1)—a valuable constituent of the article, namely, protein, had been in part omitted from some shipments; and 402(b) (4)—fibre had been added to some shipments of the article and mixed and packed therewith so as to increase its bulk and weight and reduce its quality.

PLEA: Toledo Alfalfa Mills and Rolland Turnow—guilty to all 9 counts of the information; Cummings Schooler Co.—nolo contendere to the 4 counts in which it was joined as a defendant.

DISPOSITION: 10-17-58. Toledo Alfalfa Mills—\$1,800 fine; Cummings Schooler Co.—\$500 fine on 4 counts; and Rolland Turnow—sentence deferred and placed on probation for 3 years.

25591. Ground grain screenings. (F.D.C. No. 41987. S. No. 46 P.)

QUANTITY: 240 unlabeled 100-lb. bags at Somerset, Ky.

SHIPPED: 6-30-58, from Kansas City, Mo., by Earl A. Hogan Co.

RESULTS OF INVESTIGATION: The article was invoiced as "ground grain screenings." Examination showed that the article consisted of ground fibrous plant material (chaff with some stem), with some starch grains but no kernels.

LIBELED: 8-18-58, E. Dist. Ky.

CHARGE: 402(b) (2)—when shipped, a mixture of ground plant material, chaff and stems, and some starch grains had been substituted in part for grain screenings; 403(e) (1)—the label of the article failed to bear the name and place of business of the manufacturer, packer, or distributor; 403(e) (2)—the label of the article failed to bear an accurate statement of the quantity of contents; 403(i)—the article failed to bear a label containing the common or usual name of the article, and a designation of ingredients.

DISPOSITION: 10-9-58. Consent—claimed by Earl A. Hogan Co. and labeled in accordance with the law.

EGGS

25592. Frozen eggs. (F.D.C. No. 42557. S. No. 32-196 P.)

QUANTITY: 100 cans at Brooklyn, N.Y.

SHIPPED: 9-11-58, from Nashville, Tenn., by Modern Egg Products, Inc.

LABEL IN PART: "Vita-Bake 30 Lbs. Net Weight Contents: Whole Eggs, Egg Yolks, Sugar and Salt."

LIBELED: 12-12-58, E. Dist. N.Y.

CHARGE: 402(a) (3)—contained decomposed eggs when shipped.

DISPOSITION: 3-19-59. Default—destruction.

25593. Shell eggs. (F.D.C. No. 42604. S. No. 40-567 P.)

QUANTITY: 28 cases, 30-doz. shell eggs each, at San Francisco, Calif.

SHIPPED: 12-12-58, from Seattle, Wash., by Washington Co-op Farmers Association.

LIBELED: 1-9-59, N. Dist. Calif.

CHARGE: 402(a) (3)—contained a decomposed substance, and eggs containing blood when shipped.

DISPOSITION: 2-3-59. Default—destruction.

25594. Frozen eggs. (F.D.C. No. 42545. S. No. 32-718 P.)

QUANTITY: 400 cans at Brooklyn, N.Y.

SHIPPED: 9-15-58, from Bridgewater, Va., by Bridgewater Produce Corp.

LABEL IN PART: "Frozen Whole Eggs 30# Net Packed by Bridgewater Produce Bridgewater, Va."

LIBELED: 12-15-58, E. Dist. N.Y.

CHARGE: 402(a) (3)—contained decomposed eggs when shipped.

DISPOSITION: 12-23-58. Consent—claimed by Bridgewater Produce Corp. Segregated; 40 cans destroyed.

FISH AND SHELLFISH*

25595. Fresh whitefish. (F.D.C. No. 42082. S. No. 11-717 P.)

QUANTITY: 12 boxes, 600-lb. total, at Detroit, Mich.

SHIPPED: 7-29-58, from Winnipeg, Canada, by Keystone Fisheries, Ltd.

LABEL IN PART: "DSD. Medium Whites South Indian Lake, Man. Keystone Fisheries Ltd. Winnipeg Product of Canada."

LIBELED: 8-12-58, E. Dist. Mich.

CHARGE: 402(a) (3)—contained parasitic cysts when shipped.

DISPOSITION: 1-28-59. Consent—claimed by Standard Fish Distributors, Detroit, Mich., and released under bond for export to Canada.

25596. Frozen red snappers (fish). (F.D.C. No. 42278. S. No. 32-709 P.)

QUANTITY: 6 ctns., 655-lb. total, at Monmouth Beach, N.J.

SHIPPED: 6-6-58, from New York, N.Y., by Jos. M. Carter, Inc.

*See also No. 25613.

LIBELED: 11-19-58, Dist. N.J.

CHARGE: 402(a)(3)—contained decomposed fish when shipped.

DISPOSITION: 1-16-59. Default—destruction.

25597. Frozen red snappers (fish). (F.D.C. No. 42280. S. Nos. 32-710 P.)

QUANTITY: 3 ctns., 296-lb. total, at Monmouth Beach, N.J.

SHIPPED: 9-5-58, from New York, N.Y., by Blue Ribbon Fish Co.

LIBELED: On or about 11-21-58, Dist. N.J.

CHARGE: 402(a)(3)—contained decomposed fish when shipped.

DISPOSITION: 1-16-59. Default—destruction.

25598. Frozen ocean perch fillets (2 seizure actions). (F.D.C. Nos. 42512, 42513. S. Nos. 47-423 P, 7-840 P.)

QUANTITY: 109 10-lb. ctns. at Boston, Mass.

SHIPPED: The fillets were from fish caught by the fishing vessels "The Four" and "M. C. Ballard" in the Atlantic Ocean outside the limits of Massachusetts, and unloaded at Boston, Mass., on 11-6-58.

LIBELED: 11-24-58, Dist. Mass.

CHARGE: 402(a)(3)—contained parasitic copepods and pus pockets when shipped.

DISPOSITION: 1-14-59. Consent—claimed by Port Fisheries, Boston, Mass. Segregated; 20 lbs. destroyed.

25599. Canned sardines. (F.D.C. No. 42816. S. No. 47-742 P.)

QUANTITY: 39 cases, 110 cans each, at Roxbury, Mass.

SHIPPED: 12-17-58, from Biddeford, Maine, by Joseph Sneider & Sons.

LABEL IN PART: (Rubber stamped on can) "Maine Sardines In Mustard Sauce packed For Joseph Sneider and Sons, Biddeford, Maine."

RESULTS OF INVESTIGATION: Examination showed that the label on most of the cans was smeared and indistinct, and that the name and place of business of the manufacturer, packer, or distributor was incomplete. A statement of the quantity of contents was also absent.

LIBELED: 2-2-59, Dist. Mass.

CHARGE: 403(e)—when shipped, the article failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor, and (2) an accurate statement of the quantity of contents; and 403(f)—certain information required to appear on the label was not prominently placed thereon with such conspicuousness (as compared with other statements on the label) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use, since the label of most of the cans was smeared and indistinct, the name and place of business of the packer was incomplete, and the label did not contain a statement of the quantity of contents.

DISPOSITION: 3-23-59 Default—delivered to a charitable institution for its use and not for sale.

FRUITS AND VEGETABLES

CANNED FRUIT*

25600. Canned applesauce and canned corn. (F.D.C. No. 42314. S. Nos. 4-839 P, 4-840 P, 4-865/6 P.)

QUANTITY: 370 ctns., 24 jars each, of applesauce, and 75 cases, 6 cans each, of corn, at Washington, D.C.

SHIPPED: 9-16-58 and 10-15-58, from Baltimore, Md., by Empire Jobbing House.

LABEL IN PART: (Jar) "Acme Ideal Net Weight 15 Ounces Apple Sauce" (some jars were unlabeled); (can) "Pine Cone Brand Whole Kernel Golden Sweet Corn * * * Albert W. Sisk & Son Distributors * * * Preston, Md. and Aberdeen, Md."; or "Rock Run * * * Whole Kernel Yellow Sweet Corn Packed by Cameron Bros. Canning Co. Rising Sun, Md."; or "Stephens Brand * * * Whole Kernel Golden Corn * * * Distributed by Harold Stephens Co. Allentown, Pa.;" or "Preston Brand Whole Kernel Golden Sweet Corn * * * Albert W. Sisk & Son Distributors * * * Preston, Maryland and Aberdeen, Maryland."

LIBELED: 11-17-58, Dist. Columbia.

CHARGE: 402(a) (3)—contained a decomposed substance when shipped.

DISPOSITION: 2-6-59. Default—destruction.

DRIED FRUIT AND FRUIT PRODUCT

25601. Dates. (F.D.C. No. 42817. S. No. 47-611 P.)

QUANTITY: 86 70-lb. cases at Portland, Maine.

SHIPPED: 11-14-58, from Port Newark, N.J.

LIBELED: 2-2-59, Dist. Maine.

CHARGE: 402(a) (3)—contained insects while held for sale.

DISPOSITION: 3-2-59. Default—destruction.

25602. Dried apple pomace. (F.D.C. No. 42262. S. No. 17-075 P.)

QUANTITY: 82 50-lb. bags at Evansville, Ind.

SHIPPED: 12-28-57, from San Francisco, Calif.

LIBELED: On or about 10-10-58, S. Dist. Ind.

CHARGE: 402(a) (3)—contained rodent hair fragments, insects, and insect fragments while held for sale.

DISPOSITION: 1-22-59. Default—destruction.

FRESH FRUIT

25603. Maraschino cherries, glaze cherries. (F.D.C. No. 42018. S. No. 44-575 M, 64-358/9 M, 65-618 M, 88-225 M, 11-961 P.)

INFORMATION FILED: 9-15-58, W. Dist. Pa., against Ohio Fruit Products Co., a corporation, North East, Pa., and Fred L. Rahal, president.

SHIPPED: Between 11-9-57 and 12-19-57, from Pennsylvania to Illinois, Ohio, New York, and Missouri.

*See also No. 25589.

CHARGE: 402(a)(3)—contained adult insects, maggots, insect eggs, insect fragments, and rodent hair fragments; and 402(a)(4)—prepared and packed under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 5-25-59. Corporation and individual—\$500 fine each, plus costs.

MISCELLANEOUS FRUIT PRODUCTS

25604. Canned orange juice. (F.D.C. No. 42341. S. No. 26-594 P.)

QUANTITY: 32 cases, 12 cans each, at Fargo, N.D.

SHIPPED: 4-21-58, from Anaheim, Calif., by E. A. Silzle Corp.

LABEL IN PART: (Can) "Standby: Fancy California Valencia Orange Juice Unsweetened 1 Qt. 14 Fl. Oz. * * * Packed For Fine Food, Inc."

LIBELED: 10-29-58, Dist. N. Dak.

CHARGE: 402(b)(2)—when shipped, water had been substituted in part for orange juice; and 403(a)—the label statement "Orange Juice" was false and misleading.

DISPOSITION: 12-16-58. Default—destruction.

25605. Canned orange juice (2 seizure actions). (F.D.C. Nos. 42339, 42340. S. Nos. 26-928/9 P, 26-931 P.)

QUANTITY: 19 cases, 48 6-oz. cans each, 228 cases, 12 46-oz. cans each, at Minneapolis and St. Cloud, Minn.

SHIPPED: 6-3-58 and 6-30-58, from Anaheim, Calif., by E. A. Silzle Corp.

LABEL IN PART: (Can) "Standby Fancy California Valencia Orange Juice Unsweetened * * * Packed For Fine Foods, Inc."

LIBELED: 10-29-58, Dist. Minn.

CHARGE: 402(b)(2)—when shipped, water had been substituted in part for orange juice; and 403(a)—the label statement "Orange Juice" was false and misleading as applied to an article composed of orange juice and water.

DISPOSITION: 12-18-58. Default—delivered to charitable institutions.

VEGETABLES AND VEGETABLE PRODUCTS*

25606. Dried green split peas. (F.D.C. No. 42267. S. No. 32-270 P.)

QUANTITY: 171 100-lb. bags at Paterson, N.J.

SHIPPED: 3-28-58, from Spokane, Wash.

LIBELED: 11-7-58, Dist. N.J.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 2-6-59. Consent—claimed by Charles Levenstein Nut Co., Paterson, N.J. Segregated; 73 lbs. destroyed.

25607. Dried lima beans and dried black-eyed peas. (F.D.C. No. 42268. S. Nos. 36-868/9 P, 38-430/3 P.)

QUANTITY: 45 bales, 12 2-lb. bags each, and 14 bales, 24 1-lb. bags each, of dried lima beans; and 35 bales, 12 2-lb. bags each, 26 bales, 24 1-lb. bags each, and 7 100-lb. bags, of dried black-eyed peas, at Little Rock, Ark.

*See also Nos. 25568, 25600.

SHIPPED: 7-22-58 and 8-24-58, from Dallas, Tex.

LIBELED: 11-4-58, E. Dist. Ark.

CHARGE: 402(a)(3)—contained insects and insect excreta while held for sale.

DISPOSITION: 2-4-59. Default—delivered to a public institution for use as animal feed.

25608. Canned succotash rice, paprika, red pepper. (F.D.C. No. 42295. S. Nos. 3-907/8 P, 3-913 P, 3-915/7 P.)

QUANTITY: 5 cases, 6 No. 10-size cans each, and 8 cases, 24 No. 303-size cans each of succotash, 4 cases, 24 3-lb. boxes each of rice, 4 1-lb. cans of paprika, and 11 1-lb. cans of red pepper, at Wilmington, N.C.

SHIPPED: The rice was shipped prior to 1957, from Houston, Tex., and the other products were shipped between 2-18-58 and 9-11-58, from Baltimore, Md., and Richmond, Va.

LIBELED: 11-14-58, E. Dist. N.C.

CHARGE: 402(a)(3)—all of the products except the succotash contained insects, and the succotash contained a decomposed substance while held for sale.

DISPOSITION: 1-14-59. Default—destruction.

25609. Canned field peas with snaps. (F.D.C. No. 42506. S. No. 32-312 P.)

QUANTITY: 55 cases, 24 1-lb. cans each, at New York, N.Y.

SHIPPED: 9-10-58, from Griffin, Ga., by Pomona Products Co.

LABEL IN PART: (Can) "Pomona Sunshine Field Peas with Snaps."

RESULTS OF INVESTIGATION: Inspection of the plant of the Harrell Bros. Canning Co., the packer of the article, disclosed the presence of insanitary conditions.

LIBELED: 12-5-58, S. Dist. N.Y.

CHARGE: 402(a)(3)—contained insect fragments; and 402(a)(4)—prepared under insanitary conditions.

DISPOSITION: 1-19-59. Default—destruction.

25610. Dried black-eyed peas. (F.D.C. No. 42360. S. Nos. 38-623/4 P.)

QUANTITY: 93 bales, 12 2-lb. bags each, and 55 bales, 24 1-lb. bags each, at Dallas, Tex.

SHIPPED: 10-29-58, from Hope, Ark. This was a return shipment.

LABEL IN PART: (Bag) "Arrow Brand California Blackeyes [or "Fancy Black-eyed Peas"] * * * Packed By Arrow Spice & Food Co., Dallas, Texas."

LIBELED: 12-3-58, N. Dist. Tex.

CHARGE: 402(a)(3)—contained insects and insect-damaged peas when shipped.

DISPOSITION: 1-16-59. Default—consumption by animals.

25611. Dried pinto beans. (F.D.C. No. 42383. S. No. 40-292 P.)

QUANTITY: 265 100-lb. bags at Knights Landing, Calif., in possession of Sutter Basin Growers Cooperative.

SHIPPED: 10-19-57, from Gooding, Idaho.

LIBELED: 12-3-58, N. Dist. Calif.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 1-16-59. Consent—claimed by Sutter Basin Growers Cooperative. Segregated; 3,245 lbs, denatured for seed.

25612. Red sweet peppers (2 seizure actions). (F.D.C. Nos. 42541, 42542. S. Nos. 32-384/5 P.)

QUANTITY: 94 cases, 4 1-gal. jars each, at New York, N.Y.

SHIPPED: 10-23-58 and 10-27-58, from Bridgeville, Del., by H. P. Cannon & Son, Inc.

LABEL IN PART: (Jar) "Marydel Brand Red Sweet Peppers * * * Packed by H. P. Cannon & Son, Inc., Bridgeville, Delaware" and "Sassone Red Sweet Pimiento Style Peppers * * * Sassone Wholesale Groceries Co., Inc., Bronx, N.Y."

LIBELED: 1-14-59, S. Dist. N.Y.

CHARGE: 402(a) (3)—contained insects, insect fragments, fly eggs, and maggots when shipped.

DISPOSITION: 3-12-59. Default—destruction.

25613. Canned pumpkin and canned sardines (2 seizure actions). (F.D.C. Nos. 42272, 42273. S. Nos. 8-167 P, 8-172/3 P.)

QUANTITY: 700 cases, 24 No. 300 unlabeled cans each, of pumpkin and 20 cases, 100 cans each, of sardines, at Dorchester, Mass.

SHIPPED: The pumpkin was shipped on 5-3-58, from Winslow's Mills, Maine, by Medomak Canning Co., and the sardines were shipped on 10-7-58, from Buck Harbor, Maine, by Stinson Canning Co.

LABEL IN PART: (Case) "One Pie Brand * * * Maine Pumpkin * * * Packed by Medomak Canning Co. Rockland, Maine * * * Dents."

RESULTS OF INVESTIGATION: The sardines were described in the invoices as "100/4 Packers Label Dents and Flats Maine Sardines in Oil [or "Mustard"]."

LIBELED: 11-4-58, Dist. Mass.

CHARGE: 403(e) (1)—when shipped, the articles failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor; 403(e) (2)—the articles failed to bear a label containing an accurate statement of the quantity of contents; 403(i) (1)—the articles failed to bear a label containing the common or usual name of the article; and 403(i) (2)—the canned sardines failed to bear a label containing the common or usual name of each ingredient.

DISPOSITION: 2-11-59. The libel actions, having been consolidated and Manhattan Stores, Inc., Dorchester, Mass., claimant, having consented to the entry of the decree, judgment of condemnation was entered and the articles were ordered released under bond to be brought into compliance with the law.

25614. Pickle products. (F.D.C. No. 42396. S. Nos. 76-672 M, 76-675 M, 78-775/6 M, 4-142 P.)

INFORMATION FILED: 12-1-58, Dist. Md., against Harper & Bateman Pickle Co., Inc., Hurlock, Md.

SHIPPED: Between 10-28-57 and 12-20-57, from Maryland to Massachusetts, New York, and the District of Columbia.

LABEL IN PART: (Jar) "1 GALLON all-crisp Brand SWEET PICKLE RELISH [or "Sweet Mixed Pickles"] Packed By Harper & Bateman Pickle Co., Inc., Hurlock, Md." and "Pixie FANCY SWEET PEPPERS CONTENTS 1 QUART."

CHARGE: 402(a)(3)—contained fly eggs, insects, and insect parts; and 402(a)(4)—prepared under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 2-27-59. \$1,000 fine, plus costs.

TOMATOES AND TOMATO PRODUCTS

25615. Canned tomatoes. (F.D.C. No. 42503. S. No. 35-955 P.)

QUANTITY: 351 cases, 24 cans each, at Philadelphia, Pa.

SHIPPED: 9-24-58, from Princess Anne, Md., by King's Creek Canning Co.

LABEL IN PART: (Can) "Harvest Brand Tomatoes Contents 1 Lb. 12 Oz. Distributed by John Price & Co. Philadelphia, Pa."

LIBELED: 11-25-58, E. Dist. Pa.

CHARGE: 403(h)(1)—the quality of the article, when shipped, fell below the standard of quality for canned tomatoes since the drained weight of the contents of the container of the article was less than 50 percent of the weight of the water required to fill the container, and its label failed to bear, as specified by regulations, a statement that it fell below such standard.

DISPOSITION: 1-19-59. Consent—claimed by King's Creek Canning Co., and relabeled.

25616. Canned tomatoes. (F.D.C. No. 42345. S. No. 9-156 P.)

QUANTITY: 748 cases, 24 cans each, at Syracuse, N.Y.

SHIPPED: 9-16-58, from Preston, Md., by Albert W. Sisk & Son.

LABEL IN PART: (Can) "Pine Cone Tomatoes Contents 1 Lb. * * * Albert W. Sisk and Son Distributors - Not Manufacturers."

LIBELED: 10-30-58, N. Dist. N.Y.

CHARGE: 402(a)(3)—contained fly eggs, maggots, and decomposed tomato material when shipped.

DISPOSITION: 1-30-59. Default—destruction.

25617. Pizza sauce. (F.D.C. No. 42359. S. No. 9-671 P.)

QUANTITY: 99 cases, 24 1-lb. 3-oz. cans each, at Buffalo, N.Y.

SHIPPED: 9-25-58, from Vineland, N.J., by Uddo & Taormina Co.

LABEL IN PART: (Can) "Progreso Brand Pizza Sauce * * * Packed By Uddo & Taormina Co. Vineland, New Jersey."

LIBELED: 11-13-58, W. Dist. N.Y.

CHARGE: 402(a)(3)—contained fly eggs and maggots when shipped.

DISPOSITION: 12-18-58. Default—destruction.

25618. Pizza sauce. (F.D.C. No. 42283. S. No. 35-963 P.)

QUANTITY: 10 cases, 6 6-lb. 9-oz. cans each, at Trenton, N.J.

SHIPPED: 10-7-58, from Bristol, Pa., by Delaware Valley Packing Co.

LABEL IN PART: (Can) "Capri Brand Pizza Sauce * * * Packed * * * for Clark Mfg. Co."

LIBELED: 11-19-58, Dist. N.J.

CHARGE: 402(a)(3)—contained fly eggs and maggots when shipped.

DISPOSITION: 12-19-58. Default—destruction.

25619. Tomato puree. (F.D.C. No. 42271. S. No. 35-946 P.)

QUANTITY: 15 cases, 48 cans each, at Philadelphia, Pa.

SHIPPED: 10-2-58, from Vineland, N.J., by Uddo & Taormina Co.

LABEL IN PART: (Can) "Mountain Beauty Contents 10½ Ozs. Av'd. Tomato Puree * * * Packed by Uddo & Taormina Co. Vineland, N.J."

LIBELED: 11-4-58, E. Dist. Pa.

CHARGE: 402(a)(3)—contained fly eggs and maggots when shipped.

DISPOSITION: 12-17-58. Default—destruction.

NUTS

25620. Shelled black walnuts. (F.D.C. No. 42391. S. Nos. 45-154/5 M, 45-170 M, 3-469 P.)

INFORMATION FILED: 1-14-59, E. Dist. Tenn., against Acker Black Walnut Corp., Morristown, Tenn.

SHIPPED: Between 12-12-56 and 1-26-58, from Tennessee to Virginia.

CHARGE: 402(a)(3)—contained insects, insect fragments, rodent hairs, and *E. coli*; and 402(a)(4)—prepared and packed under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 3-2-59. \$500 fine.

25621. Shelled peanuts. (F.D.C. No. 42363. S. No. 17-104 P.)

QUANTITY: 39 124-lb. bags at Cincinnati, Ohio, in possession of Frank Tea & Spice Co.

SHIPPED: 10-15-58, from Statesboro, Ga.

LIBELED: 11-19-58, S. Dist. Ohio.

CHARGE: 402(a)(3)—contained rodent urine and rodent-gnawed nuts; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 2-18-59. Consent—claimed by Frank Tea & Spice Co. Segregated; 620 lbs. destroyed.

25622. Unshelled brazil nuts. (F.D.C. No. 42522. S. No. 44-495 P.)

QUANTITY: 215 ctns., 24 1-lb. boxes each, at Atlanta, Ga.

SHIPPED: 10-16-58, from New York, N.Y., by Red Line Commercial Co. Inc.

LABEL IN PART: (Box) "Cliff House * * * Brazil Nuts Distributed by Cliff House, New York, N.Y."

LIBELED: 11-26-58, N. Dist. Ga.

CHARGE: 402(a)(3)—contained moldy and rancid nuts when shipped.

DISPOSITION: 1-15-59 and 1-19-59. Default—delivery to a Government institution for segregation and destruction of unfit nuts, and the use of the good nuts as food.

25623. Unshelled brazil nuts. (F.D.C. No. 42530. S. No. 44-496 P.)

QUANTITY: 37 cases, 24 1-lb. boxes each, at Atlanta, Ga.

SHIPPED: 10-16-58, from New York, N.Y.

LIBELED: 11-26-58, N. Dist. Ga.

CHARGE: 402(a)(3)—contained moldy, rancid nuts while held for sale.

DISPOSITION: 1-15-59 and 1-19-59. Default—delivery to a Government institution for segregation and destruction of unfit nuts, and the use of the good nuts as food.

25624. Chestnuts. (F.D.C. No. 42538. S. Nos. 3-222/3 P.)

QUANTITY: 13 cases at Atlanta, Ga.

SHIPPED: On an unknown date, from Italy.

LIBELED: 12-1-58, N. Dist. Ga.

CHARGE: 402(a)(3)—contained insects and moldy and decomposed nuts while held for sale.

DISPOSITION: 1-15-59. Default—destruction.

25625. Chestnuts. (F.D.C. No. 42537. S. No. 3-230 P.)

QUANTITY: 33 bbls. at Atlanta, Ga.

SHIPPED: On an unknown date, from Italy.

LIBELED: 11-28-58, N. Dist. Ga.

CHARGE: 402(a)(3)—contained insects and moldy and decomposed nuts while held for sale.

DISPOSITION: 1-15-59. Default—destruction.

25626. Shelled almonds. (F.D.C. No. 42531. S. No. 32-499 P.)

QUANTITY: 387 25-lb. ctns. at New York, N.Y.

SHIPPED: 8-15-58, from Atascadero, Calif.

LIBELED: 12-12-58, S. Dist. N.Y.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 1-29-59. Consent—claimed by Tri-Co. Almonds, Inc., Chico, Calif. Segregated; 254 lbs. denatured.

25627. Unshelled brazil nuts. (F.D.C. No. 42546. S. Nos. 15-812/3 P.)

QUANTITY: 97 cases, 12 2-lb. bags each, at Chicago, Ill.

SHIPPED: 11-8-58, from Chicago, Ill., to Toledo, Ohio, by Robert L. Berner Co., and from there returned to Chicago.

LABEL IN PART: (Bag) "Holiday Brand Extra Fancy Nuts * * * Packed by Robert L. Berner Co., Chicago, Ill."

LIBELED: 12-3-58, N. Dist. Ill.

CHARGE: 402(a)(3)—contained moldy and decomposed nuts when shipped.

DISPOSITION: 1-8-59. Consent—claimed by Robert L. Berner Co. Segregation proved to be unsuccessful and the nuts were subsequently destroyed.

25628. Unshelled brazil nuts. (F.D.C. No. 42548. S. No. 44-061 P.)

QUANTITY: 7 50-lb. bags at Atlanta, Ga.

SHIPPED: On an unknown date, from outside the State of Georgia.

LIBELED: 12-4-58, N. Dist. Ga.

CHARGE: 402(a)(3)—contained moldy nuts while held for sale.

DISPOSITION: 1-15-59 and 1-19-59. Default—delivery to a Government institution for segregation and destruction of unfit nuts, and the use of the good nuts as food.

25629. Unshelled brazil nuts. (F.D.C. No. 42373. S. No. 15-643 P.)

QUANTITY: 22 cases, 24 1-lb. boxes each, at Cincinnati, Ohio.

SHIPPED: 10-30-58, from Chicago, Ill.

LIBELED: 11-25-58, S. Dist. Ohio.

CHARGE: 402(a)(3)—contained decomposed nuts while held for sale.

DISPOSITION: 1-7-59. Default—consumption by animals.

25630. Shelled peanuts. (F.D.C. No. 42369. S. No. 24-345 P.)

QUANTITY: 20 100-lb. bags at Los Angeles, Calif.

SHIPPED: 7-17-58, from Suffolk, Va.

LIBELED: 12-3-58, S. Dist. Calif.

CHARGE: 402(a)(3)—contained insects and insect-damaged nuts while held for sale.

DISPOSITION: 1-15-59. Default—destruction.

25631. Unshelled almonds. (F.D.C. No. 42370. S. No. 45-455 P.)

QUANTITY: 44 cases, 24 bags each, at Denver, Colo.

SHIPPED: 10-30-58, from Chico, Calif., by Tri-Co. Almonds, Inc.

LABEL IN PART: (Bag) "Golden Bloom * * * Softshell Almonds Net Wt. 14 Oz. * * * Rosenberg Bros. & Co., Inc. San Francisco, California."

LIBELED: 11-24-58, Dist. Colo.

CHARGE: 402(a)(3)—contained insects, and moldy and gummy nuts when shipped.

DISPOSITION: 2-3-59. Consent—claimed by Tri-Co. Almonds, Inc., and reconditioned by segregation and destruction of the unfit portion of the product.

25632. Unshelled mixed nuts. (F.D.C. No. 42389. S. No. 45-456 P.)

QUANTITY: 52 100-lb. bags at Denver, Colo.

SHIPPED: 11-5-58, from El Paso, Tex.

LIBELED: 12-2-58, Dist. Colo.

CHARGE: 402(a)(3)—contained rancid and moldy nuts while held for sale.

DISPOSITION: 1-6-59. Consent—claimed by Azar Brothers, El Paso, Tex. Segregated; 488 lbs. destroyed.

25633. Shelled walnuts. (F.D.C. No. 42368. S. Nos. 26-848/9 P.)

QUANTITY: 71 boxes at Minneapolis, Minn.

SHIPPED: 9-30-58, from San Jose, Calif., by Santa Clara Nut Co.

LABEL IN PART: "25 Lbs. Net Light [or "Light Halves & Pieces"] California Walnut Meats Cottage Grove Nut Co. San Jose, Calif. * * * 1590 Little Orchard."

LIBELED: 11-25-58. Dist. Minn.

CHARGE: 402(a)(3)—contained insects when shipped.

DISPOSITION: 1-8-59. Consent—claimed by Meyer A. Fingerma, t/a United Packaging Service, Minneapolis, Minn. Segregated; 917 lbs. destroyed.

25634. Shelled peanuts. (F.D.C. No. 42348. S. No. 17-286 P.)

QUANTITY: 93 125-lb. bags at Louisville, Ky.

SHIPPED: 5-23-58, from Arlington, Ga.

LIBELED: 11-4-58, W. Dist. Ky.

CHARGE: 402(a)(3)—contained insects, insect-damaged nuts, and decomposed nuts while held for sale.

DISPOSITION: 1-30-59. Consent—claimed by Bradas & Gheens, Inc., Louisville, Ky., and converted into animal feed.

OILS AND FATS

25635. Crude cottonseed oil. (Inj. No. 271.)

COMPLAINT FOR INJUNCTION FILED: 12-14-53, W. Dist. Tex., against Seguin Cotton Oil Co., a corporation, Seguin, Tex.

CHARGE: The complaint alleged that the defendant corporation was in the business of manufacturing, preparing, and distributing crude cottonseed oil, an article of food, and had been and was then introducing and causing to be introduced into interstate commerce, at Seguin, Tex., the crude cottonseed oil adulterated under 402(a)(3) and 402(a)(4) by reason of the presence in the article of rodent and insect filth, and by reason of the use in the manufacture and preparation of the article of raw materials which were contaminated with bat excreta and rodent and insect filth; and by reason of being manufactured, prepared, and held at defendant's plant under insanitary conditions.

It was alleged further that the insanitary conditions in the plant resulted from and consisted of the presence of bats and rats in the warehouse where cottonseed was stored; bat excreta and poisonous insecticides intermingled with cottonseed; infestation of the manufacturing plant with flies and beetles; rodent excreta pellets on the covers partially covering the storage tanks; rodent pellets in the oil foam in the storage tank; cottonseed meal containing bat excreta; beetle-infested cottonseed material above the screw conveyor where it carried rolled cottonseed meats into the press room; skimmings off the oil in the trough under the hydraulic presses which contained flies; cottonseed oil in the settling tank which contained several large insects; cottonseed oil in the storage tank which contained flies and rodent pellets; sweepings from the floor of the press room being used in the manufacture of the article, which sweepings contained flies, nondescript dirt, gnawed bones and food scraps discarded by the employees which were swept up and placed in the processing stream.

It was alleged further that the refining process of the expressed oil obtained from cottonseeds was such that the oil soluble portions of the insect and excreta filth remained in the cottonseed oil; that the insanitary conditions also resulted from and consisted of general carelessness on the part of the defendant and its employees; and that the defendant had in storage in the plant cottonseeds which were held under insanitary conditions and crude cottonseed oil which consisted of filthy substances and which constituted a menace to interstate commerce.

The complaint alleged also that the defendant was well aware that its activities were violative of the Act; that various inspections had been made by the Food and Drug Administration, at which times the insanitary conditions were called to the attention of the defendant; and, that despite such warnings, the defendant failed to improve the plant conditions and continued to introduce and cause to be introduced into interstate commerce, the crude cottonseed oil which was adulterated as described above.

DISPOSITION: On 12-14-53, the court issued a temporary restraining order without notice, restraining the defendants from introducing or causing to be introduced into interstate commerce, cottonseed oil which was adulterated within the meaning of 402(a) (3) and (4); the restraining order expired 12-24-53.

Thereafter, the Government filed a motion for a preliminary injunction. The defendant filed an answer denying that the Government was entitled to a preliminary injunction. On 1-17-55, the court entered the following order:

On December 13, 1954, came on to be heard plaintiff's motion for preliminary injunction, the plaintiff and the defendant appearing by and through their respective attorneys of record; and defendant, through its attorneys, having stipulated in open court as follows:

That defendant will not hereafter produce unrefined cottonseed oil nor operate its plant at Seguin, Texas, for such purpose, in any manner, until it has completed the remodeling and renovation of its plant in accordance with the standards set by sanitarians employed by it, and present said plant for further inspection by the United States Food and Drug Administration representatives; and further, that the crude, unrefined cottonseed oil produced in said plant and presently stored on said premises consisting of approximately 200,000 pounds of such unrefined cottonseed oil, and being all of the oil in its possession on its premises will not be sold, disposed of, or moved therefrom, but will remain impounded on said premises until such time as plaintiff shall have a hearing before this court for the purpose of passing upon whether or not said oil was produced under satisfactory sanitary conditions and, as unrefined cottonseed oil, is reasonably free from contamination so as to make it fit for refining for ultimate consumption as a food product; however, pending such hearing, both plaintiff and defendant shall have the right and privilege to take samples of said oil for analyses and use, in connection with said hearing and the trial of this cause.

And it appearing to the court that said stipulation sufficiently protects the public from danger of irreparable injury or damage pending hearing on said suit for permanent injunction, and that no benefit will accrue to plaintiff by the granting of a temporary injunction, said motion for temporary injunction is hereby refused and the stipulation as hereinabove set forth is hereby made the order of this court.

On 2-19-55, the defendant filed a motion to obtain a release of the oil impounded by the court's order of 1-17-55. The motion was heard by the court and, on 4-18-55, the court ordered that the impounded crude cottonseed oil, or oil refined therefrom, or any article made therefrom, should not be introduced or delivered for introduction into interstate commerce, for use as food for human consumption; and it ordered further that the impounded oil be released to the defendant subject only to the restriction stated above.

Thereafter on 1-3-58, on motion of the Government, the court entered an order dismissing the action without prejudice.

25636. Olive oil. (F.D.C. No. 42058. S. Nos. 40-046/8 P.)

QUANTITY: 139 cases, 24 2-oz. btls. each; 316 cases, 24 4-oz. btls. each; 203 cases, 24 8-oz. btls. each; 32 cases, 12 1-qt. btls. each; 16 cases, 4 1-gal. cans each; and 125 cases, 12 1-pt. btls. each, at San Francisco, Calif.

SHIPPED: Imported Tunisian olive oil was shipped in bulk drums, on 3-21-58 and 4-21-58, from Brooklyn or New York, N.Y., to the refining plant of the Leghorn Trading Co., at Lindsay, Calif., for blending with approximately 70

percent domestic olive oil. The oil was subsequently shipped in drums from Lindsay, Calif., to Lady's Choice Foods at San Francisco, where it was re-packed and labeled.

LABEL IN PART: "Lady's Choice * * * Imported Virgin Olive Oil * * * Packed By Lady's Choice Foods San Francisco - Los Angeles."

LIBELED: 7-23-58, N. Dist. Calif.

CHARGE: 403(a)—while held for sale, the label statement "Imported Virgin Olive Oil" was false and misleading as applied to the article which was a mixture of imported and domestic oils.

DISPOSITION: 1-16-59. Consent—claimed by Lady's Choice Foods, San Francisco, Calif., and relabeled.

25637. Liquid fat. (F.D.C. No. 41554. S. No. 15-562 P.)

QUANTITY: 60,000 lbs. at Lexington, Ky.

SHIPPED: 11-14-57, from Cincinnati, Ohio, by Kentucky Chemical Industries, Inc.

RESULTS OF INVESTIGATION: Examination showed that the article was a mixture of fat and fatty acids with a relatively high content of unsaponifiable material. The article was used as an ingredient in poultry feeds. When fed to poultry in customary amounts, the article was toxic.

LIBELED: 5-9-58, E. Dist. Ky.

CHARGE: 402(a) (1)—contained an added poisonous or deleterious substance when shipped.

DISPOSITION: 10-3-58. Consent—claimed by Red Comb Pioneer Mills, Inc., Lexington, Ky. Destroyed except for 200 gal., which were to be used by claimant for experimental purposes only.

25638. Table and cooking oil. (F.D.C. No. 42258. S. No. 7-287 P.)

QUANTITY: 86 cases, 6 cans each, at Boston, Mass., in possession of California Olive Oil Co., Inc.

SHIPPED: The above-mentioned oil was manufactured by California Olive Oil Co., Inc., at Boston, Mass., from ingredients consisting of olive oil and soybean oil which had been received from outside the State of Massachusetts.

LABEL IN PART: (Can) "Di Lucca Brand * * * Contents One Gallon * * * Domestic Vegetable Oil—Pure Olive Oil * * * Packed by Enna Olive Oil Co. Boston, Mass."

LIBELED: 9-25-58, Dist. Mass.

CHARGE: 402(b) (2)—a mixture of soybean oil with little or no olive oil had been substituted for a blend of vegetable oil and olive oil which the article was represented to be while held for sale; 403(a)—the label statement "Vegetable Oil—Pure Olive Oil" was false and misleading as applied to a product containing little or no olive oil; and 403(i) (2)—the label of the article failed to bear the common or usual name of each ingredient.

DISPOSITION: 11-4-58. Consent—claimed by Domenic Previte, t/a Enna Olive Oil Co., Boston, Mass., and relabeled.

POULTRY

25639. Canned Rock Cornish game hens. (F.D.C. No. 42189. S. No. 7-585 P.)

QUANTITY: 403 cans at Pomfret Center, Conn.

SHIPPED: From New York, N.Y.

RESULTS OF INVESTIGATION: Examination showed the product was undergoing bacterial decomposition.

LIBELED: 9-16-58, Dist. Conn.

CHARGE: 402(a) (3)—contained a decomposed substance while held for sale.

DISPOSITION: 1-9-59. Default—delivered to a Federal institution for use as animal feed.

25640. Dressed poultry. (F.D.C. No. 42317. S. No. 30-826 P.)

QUANTITY: 24 crates, 60 lbs. each, at Bronx, N.Y.

SHIPPED: 10-2-58, from Herndon, Pa.

LIBELED: 12-5-58, S. Dist. N.Y.

CHARGE: 402(a) (3)—contained birds contaminated with fecal material while held for sale.

DISPOSITION: 2-3-59. Default—destruction.

SPICES, FLAVORS, AND SEASONING MATERIALS*

25641. Defatted paprika. (F.D.C. No. 42388. S. Nos. 29-238/9 P.)

QUANTITY: 6 230-lb. drums at Birmingham, Ala.

SHIPPED: 8-29-58 and 9-26-58, from Santa Ana, Calif., by Standardized Products Co.

LIBELED: 12-2-58, N. Dist. Ala.

CHARGE: 402(b) (1)—a valuable constituent, the natural flavoring oil, had been in part omitted or abstracted from the article when shipped.

DISPOSITION: 1-5-59. Default—destruction.

25642. Defatted paprika. (F.D.C. No. 42387. S. No. 28-837 P.)

QUANTITY: 3 drums at Shreveport, La.

SHIPPED: 9-6-58 and 10-16-58, from Santa Ana, Calif., by Standardized Products Co.

LIBELED: 12-4-58, W. Dist. La.

CHARGE: 402(b) (1)—a valuable constituent, the natural flavoring oil, had been in part omitted or abstracted from the article when shipped.

DISPOSITION: 1-16-59. Default—destruction.

25643. Sesame seed. (F.D.C. No. 42508. S. No. 44-047 P.)

QUANTITY: 12 ctns., 12 2-oz. cans each, of sesame seed, at Florence, S.C., in possession of Massey-Hite Grocery Co.

SHIPPED: 1-3-56, from Richmond, Va.

LIBELED: 12-1-58, E. Dist. S.C.

CHARGE: 402(a) (3)—contained insects; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 1-20-59. Default—destruction.

*See also No. 25563, 25608.

25644. Mayonnaise. (F.D.C. No. 42704. S. No. 40-219 P.)

QUANTITY: 20 quart jars, 36 pint jars, and 236 half pint jars, at San Francisco, Calif.

SHIPPED: 10-27-58, from East Paterson, N.J.

LIBELED: 2-20-59, N. Dist. Calif.

CHARGE: 402(a)(3)—contained a decomposed substance while held for sale.

DISPOSITION: 4-2-59. Default—destruction.

25645. Sesame seed. (F.D.C. No. 42298. S. No. 32-632 P.)

QUANTITY: 5 bags, 475 lbs. total, at Newark, N.J.

SHIPPED: 8-19-58, from New York, N.Y.

LIBELED: 11-13-58, Dist. N.J.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 1-12-59. Default—destruction.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE

25646. Lactocal tablets and Ferrovite tablets. (F.D.C. No. 41583. S. Nos. 59-673 M, 59-676 M.)

QUANTITY: 368 100-tablet btls. and 4 1,000-tablet btls. of Lactocal, and 21 100-tablet btls. of Ferrovite, at Crown Point, Ind.

SHIPPED: 7-8-57 and 11-26-57, from Chicago, Ill., by Standard Pharmacal Co.

LABEL IN PART: (Btl.) "DAL No. 107 Lactocal . . . Prenatal Tablets Each . . . Tablet Contains: . . . Ascorbic Acid 75 mg. . . 1784." and "DAL No. 108 Ferrovite Multivitamins With Iron Tablets . . . Each . . . Tablet Contains: . . . Vit. A—5000 U. . . Vitamin C. 75 Mg."

RESULTS OF INVESTIGATION: Examination showed that both products contained less than the declared amount of vitamin C, and that the Ferrovite contained less than the declared amount of vitamin A.

LIBELED: 2-21-58, N. Dist. Ind.

CHARGE: 402(b)(1)—when shipped, valuable constituents, namely vitamin C (both products) and vitamin A (Ferrovite) had been in part omitted or abstracted from the articles; and 403(a)—the label statements (Lactocal) "Each . . . Tablet Contains: . . . Ascorbic Acid 75 Mg." and (Ferrovite) "Each . . . Tablet Contains: . . . Vit. A . . . 5000 U. . . Vitamin C. 75 Mg." were false and misleading.

DISPOSITION: 4-7-58. Default—destruction.

25647. Vitamin tablets. (F.D.C. No. 41440. S. No. 16-062 P.)

QUANTITY: 5 drums containing a total of 44,178 tablets at Covington, Ky.

SHIPPED: 4-6-55, from Cincinnati, Ohio.

LIBELED: 2-27-58, E. Dist. Ky.

CHARGE: 402(b)(1)—a valuable constituent, namely, vitamin B₁, had been in part omitted or abstracted from the article while held for sale; and 403(a)—the label statement "Each Tablet Contains * * * Thiamine Mononitrate . . . 2 mg." was false and misleading as applied to a product which contained less than the stated amount of vitamin B₁.

DISPOSITION: 5-21-58. Consent—claimed by the Kenton Pharmacal Co., Inc., Covington, Ky., and relabeled.

25648. Vitamin candules. (F.D.C. No. 42296. S. No. 7-892 P.)

QUANTITY: 22 100-candule btls. at Boston, Mass.

SHIPPED: 4-4-57, from Newark, N.J.

LIBELED: 11-12-58, Dist. Mass.

CHARGE: 402(b) (1)—the valuable constituents, namely, vitamin B₁, vitamin B₁₂, and riboflavin, had been in part omitted or abstracted from the article while held for sale; and 403(a)—label statement “Each candule contains * * * Thiamine Hydrochloride (B₁), 20 mg. * * * Riboflavin (B₂) 10 mg. * * * Vitamin B₁₂ * * * 15 mcg.” was false and misleading.

DISPOSITION: 2-9-59. Default—destruction.

25649. Vitamin elixir. (F.D.C. No. 42349. S. No. 29-214 P.)

QUANTITY: 269 btls. at New Orleans, La.

SHIPPED: On various dates between 1955 and 1958, from Memphis, Tenn.

LIBELED: 11-4-58, E. Dist. La.

CHARGE: 402(b) (1)—the valuable constituent, namely, vitamin B₁, had been in part omitted or abstracted from the article while held for sale; and 403(a)—the label statement “Each Fluid Ounce Contains * * * Vitamin B-1 * * * 5.0 mg.” was false and misleading.

DISPOSITION: 2-5-59. Default—destruction.

25650. Dietetic canned tomatoes. (F.D.C. No. 42609. S. No. 51-790 P.)

QUANTITY: 45 cases, 24 cans each, at St. Paul, Minn.

SHIPPED: 4-18-57, from San Jose, Calif., by United States Products Corp., Ltd.

LABEL IN PART: (Can) “Dinner Party Brand Tomatoes Contents 1 Lb. Diabetic Distributors Dinner Party Foods, Inc., Chicago, Ill.”

LIBELED: 1-13-59, Dist. Minn.

CHARGE: 403(j)—when shipped, the article purported to be and was represented for special dietary use, and its label failed to bear, as required by regulations, a statement of the dietary properties upon which such use was based, and a statement showing the presence or absence of any substance, any alteration of the quantity or character of any constituent, and any other dietary property of such food upon which such use was so based.

DISPOSITION: 2-11-59. Consent—claimed by Security Wholesale Grocery Co. Inc., St. Paul, Minn., and relabeled.

INDEX TO NOTICES OF JUDGMENT F.N.J. NOS. 25551 TO 25650

PRODUCTS

	N.J. No.		N.J. No.
Alfalfa meal_____	25590	Batter mix_____	25557, 25565, 25580
Almonds, shelled_____	25626	Beans, black-eyed. See Peas,	
unshelled_____	25631	black-eyed, dried.	
Apple pomace, dried_____	25604	lima, dried_____	25607
Applesauce, canned_____	25600	pinto, dried_____	25611
Bakery products_____	25554, 25555	Beverages and beverage mate-	
Barley _____	25582	rials____	25551-25553, 25604, 25605

	N.J. No.		N.J. No.
Bran_____	25573	Grains. <i>See</i> Feeds and grains.	
Brazil nuts, unshelled_____	25622,	Ground grain screenings_____	25591
25623, 25627-25629		Lactocal tablets_____	25646
Bread_____	25554	Lima beans, dried_____	25607
Candy. <i>See</i> Confectionery.		Macaroni and noodle prod-	
Canned fruit_____	25589, 25600	ucts_____	25567-25569
Cereals and cereal prod-		Mayonnaise _____	25644
ucts _____	25554-25582	Mix, cake_____	25575
Cherries, glace_____	25603	corn muffin_____	25581, 25582
maraschino_____	25603	hot roll_____	25582
Cherry concentrate_____	25553	piecrust_____	25582
Chestnuts_____	25624, 25625	Mixed nuts, unshelled_____	25632
Chicory _____	25552	Molasses, sorghum_____	25587
Chocolate Flo'z_____	25583	Noodles. <i>See</i> Macaroni and noo-	
Cocoa beans_____	25584	dle products.	
Confectionery _____	25585, 25586	Nuts _____	25620-25634
Cookies _____	25554	Oats, rolled_____	25563
Corn, canned_____	25600	Oils and fats_____	¹ 25635-25638
Corn chips_____	25574	Oleomargarine _____	25568
Cornish, Rock, game hens,		Olive oil_____	25636
canned_____	25639	Orange juice, canned_____	25604, 25605
Cottonseed oil, crude_____	¹ 25635	Paprika _____	25608
Dates _____	25601	defatted_____	25641, 25642
Egg(s), frozen_____	25592, 25594	Peanuts, shelled___	25621, 25630, 25634
shell _____	25593	Peas, black-eyed, dried_____	25568,
noodles _____	25567-25569, 25582	25607, 25610	
Farina _____	25576	field, canned, with snaps_____	25609
Fat, liquid_____	25637	split, green, dried_____	25606
Fats. <i>See</i> Oils and fats.		Pepper, red_____	25608
Feeds and grains_____	25590, 25591	Peppers, red, sweet_____	25612
Ferrovite tablets_____	25646	Perch fillets, frozen_____	25598
Fish and shellfish_____	25595-25599	Pickle products_____	25614
Flavors. <i>See</i> Spices, flavors, and		Pinto beans, dried_____	25611
seasoning materials.		Pizza sauce_____	25617, 25618
Flour__ 25556-25566, 25567, 25573, 25578		Popcorn, unpopped_____	25571,
Fruit cake_____	25555	25572, 25575, 25582	
Fruits and vegetables_____	25589,	Poultry_____	25639, 25640
25600-25619		Pumpkin, canned_____	25613
fruit, canned_____	25589, 25600	Rice_____	25557, 25608, 25577-25579
dried and fruit product_____	25601,	Rock Cornish game hens, canned_	25639
25602		Rye meal_____	25573
fresh_____	25603	Sardines, canned_____	25599, 25613
miscellaneous fruit prod-		Sausage seasoning_____	25563
ucts_____	25604, 25605	Sesame seed_____	25643, 25645
tomatoes and tomato prod-		Shrimp breading_____	25580
ucts_____	25615-25619	dip _____	25580
vegetables and vegetable prod-		Sirup, sorghum_____	25588
ucts_____	25568, 25600, 25606-25614		

¹ (25635) Injunction contested.

	N.J. No.		N.J. No.
Snappers (fish), red, frozen-----	25596,	Tea -----	25551
	25597	Vegetables. <i>See</i> Fruits and	
Sorghum molasses-----	25587	vegetables.	
sirup -----	25588	Vitamin, mineral, and other	
Spices, flavors, and seasoning		products of special dietary	
materials-----	25641-25645	significance-----	25646-25650
Succotash, canned-----	25608	Walnuts, black, shelled-----	25620
Sugar -----	25589	shelled -----	25633
Tomato(es), canned-----	25615, 25616	Wheat-----	² 25570
dietetic, canned-----	25650	Whitefish, fresh-----	25595
puree -----	25619		

SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS

	N.J. No.		N.J. No.
Acker Black Walnut Corp.:		Cash & Carry Warehouse #1:	
shelled black walnuts-----	25620	rice and flour-----	25578
Allied Bakers Supply, Inc.:		Central Popcorn Co.:	
rye meal, bran, flour-----	25573	unpopped popcorn-----	25571
Anderson, Jack:		Childress, W. H.:	
sorghum sirup-----	25588	flour, rice, and batter mix-----	25557
Arrow Spice & Food Co.:		Clark Mfg. Co.:	
dried black-eyed peas-----	25610	pizza sauce-----	25618
Baker, F. W.:		Cliff House:	
egg noodles and flour-----	25567	unshelled brazil nuts-----	25622
Baker Bros.:		Cottage Grove Nut Co.:	
egg noodles and flour-----	25567	shelled walnuts-----	25633
Ballard, M. C. (boat):		Cummings Schooler Co.:	
frozen ocean perch fillets-----	25598	alfalfa meal-----	25590
Beehive Bakery:		Daniels, C. B.:	
bread and cookies-----	25554	sorghum molasses-----	25587
Berner, Robert L., Co.:		Delaware Valley Packing Co.:	
brazil nuts, unshelled-----	25627	pizza sauce-----	25618
Blood, J. B., Co. <i>See</i> Elm Farm		Dinner Party Foods, Inc.:	
Foods Co.		dietetic canned tomatoes-----	25650
Blue Ribbon Fish Co.:		Donelson & Poston, Inc.:	
frozen red snappers (fish)-----	25597	unpopped popcorn-----	25572
Boats. <i>See</i> The Four, Ballard,		Elm Farm Foods Co.:	
M. C. (boats).		bread and cookies-----	25554
Bridgewater Produce Corp.:		Empire Jobbing House:	
frozen eggs-----	25594	canned applesauce and canned	
California Olive Oil Co., Inc.:		corn -----	25600
table and cooking oil-----	25638	Enna Olive Oil Co.:	
Cameron Bros. Canning Co.:		table and cooking oil-----	25638
canned applesauce and canned		Filler Products, Inc.:	
corn -----	25600	corn chips-----	25574
Cannon, H. P., & Son, Inc.:		Fine Foods, Inc.:	
red sweet peppers-----	25612	canned orange juice-----	25604, 25605
Carter, J. M., Inc.:		Flowers, W. L., & Co.:	
frozen red snappers-----	25596	rice -----	25577

² (25570) Injunction issued.

	N.J. No.		N.J. No.
Frank Tea & Spice Co.:		New England Confectionery Co.:	
shelled peanuts-----	25621	candy -----	25585
Golden Crust Bakery:		New England Fillet Co., Inc.:	
flour -----	25556	frozen ocean perch fillets-----	25598
Greer, Autry, & Sons:		New London Paper & Supply Co.:	
flour -----	25564	corn muffin mix, unpopped pop-	
Harper & Bateman Pickle Co.,		corn, hot roll mix, piecrust	
Inc.:		mix, barley, and egg noodles_	25582
pickle products-----	25614	Ohio Fruit Products Co.:	
Hillcrest Food Kitchens:		maraschino cherries, gl a c e	
bread and cookies-----	25554	cherries -----	25603
Hogan, E. A., Co.:		Peerless Food Co.:	
ground grain screenings-----	25591	flour and batter mix-----	25565
Ismert-Hincke Milling Co.:		Pomona Products Co.:	
farina -----	25576	canned field peas with snaps--	25609
Kentucky Chemical Industries,		Price, John, & Co.:	
Inc.:		canned tomatoes-----	25615
liquid fat-----	25637	Rahal, F. L.:	
Kershaw, Arthur:		sugar and black raspberry	
sugar and black raspberry		puree-----	25589
puree-----	25589	maraschino cherries, gl a c e	
Keystone Fisheries, Ltd.:		cherries -----	25603
fresh whitefish-----	25595	Renfro Supply Co.:	
Kientzel Noodle Co., Inc.:		flour, rolled oats, and sausage	
egg noodles-----	25569	seasoning -----	25563
King's Creek Canning Co.:		Rodney Milling Co.:	
canned tomatoes-----	25615	wheat-----	¹ 25570
Lady's Choice Foods:		Rosenberg Bros. & Co., Inc.:	
olive oil-----	25636	unshelled almonds-----	25631
Lanier, E. S., Jr.:		Santa Clara Nut Co.:	
flour, rice, and batter mix-----	25557	shelled walnuts-----	25633
Lanier Bros.:		Sassone Wholesale Groceries Co.:	
flour, rice, and batter mix-----	25557	red sweet peppers-----	25612
Leghorn Trading Co.:		Sea Pak Corp.:	
olive oil-----	25636	shrimp breading, batter mix,	
Lerek, N. G.:		and shrimp dip-----	25580
flour -----	25556	Segal, Louis, Candy Co.:	
Massey-Hite Grocery Co.:		candy -----	25586
sesame seed-----	25643	Seguin Cotton Oil Co.:	
McCarty, L. P., & Son:		crude cottonseed oil-----	¹ 25635
flour -----	25558	Sifers Chocolate Syrup Co., Inc.:	
Medomak Canning Co.:		Chocolate Flo'z-----	25583
canned pumpkin & canned sar-		Silzle, E. A., Corp.:	
dines -----	25613	canned orange juice-----	25604, 25605
Modern Egg Products, Inc.:		Sisk, Albert W., & Son:	
frozen eggs-----	25592	canned applesauce and canned	
Mueller, E. B., & Co.:		corn -----	25600
chicory -----	25552	canned tomatoes-----	25616

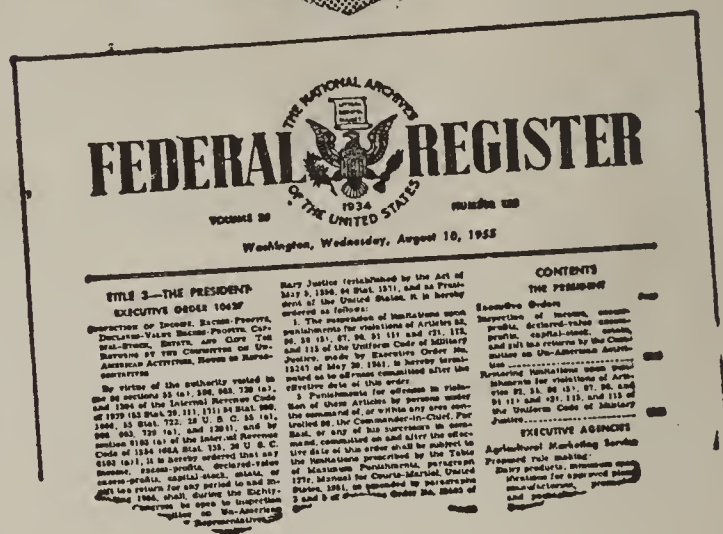
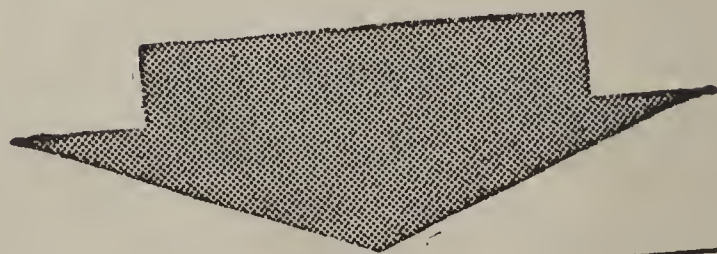
¹ (25635) Injunction contested.² (25570) Injunction issued.

	N.J. No.		N.J. No.
Sneider, Joseph, & Sons:		Thompson, Earl:	
canned sardines_____	25599	wheat_____	² 25570
Soll-Madden Salvage Co.:		Toledo Alfalfa Mills:	
corn muffin mix_____	25581	alfalfa meal_____	25590
Standard Pharmacal Co.:		Tri-Co Almonds, Inc.:	
Lactocal tablets and Ferrovite		unshelled almonds_____	25631
tablets _____	25646	Turnow, Rolland:	
Standardized Products Co.:		alfalfa meal_____	25590
defatted paprika_____	25641, 25642	Turpentine & Rosin Factors, Inc.:	
Stephens, Harold, Co.:		rice _____	25579
canned applesauce and canned		Uddo & Taormina Co.:	
corn _____	25600	pizza sauce_____	25617, 25618
Stinson Canning Co.:		tomato puree_____	25619
canned pumpkin and canned		United States Products Corp.,	
sardines _____	25613	Ltd.:	
Summit Bakery:		dietetic canned tomatoes_____	25650
flour _____	25560	Valerie Sweets:	
Sunshine Packing Corp.:		candy _____	25586
sugar and black raspberry		Valley Queen Bakery. See	
puree _____	25589	Golden Crust Bakery.	
Sutter Basin Growers Coopera-		Washington Cooperative Farmers	
tive:		Association:	
dried pinto beans_____	25611	shell eggs_____	25593
The Four (boat):		Wisconsin Distributing Co.:	
frozen ocean perch fillets_____	25598	flour _____	25561

² (25570) Injunction issued.

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U.S. Department of Health, Education, and Welfare

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

25651-25750

FOODS

The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were adulterated or misbranded within the meaning of the Act when introduced into and while in interstate commerce or while held for sale after shipment in interstate commerce. These cases involve (1) seizure proceedings in which decrees of condemnation were entered by default or by consent and including, in one case, the entry of a decree for injunction and (2) criminal proceedings which were terminated upon pleas of guilty or nolo contendere. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the criminal proceedings are against the *firms* or *individuals* charged to be responsible for violations.

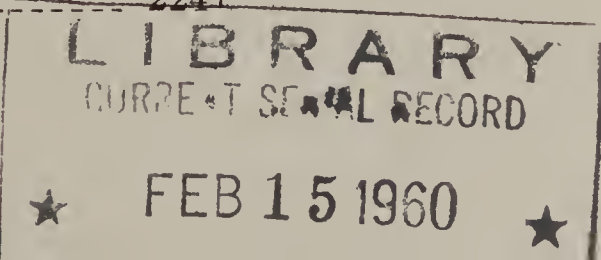
Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D.C., *January 4, 1960*

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**SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN VIOLATIONS
REPORTED IN F.N.J. NOS. 25651-25750**

Adulteration, Section 402(a) (1), the article contained an added deleterious substance which may have rendered it injurious to health; Section 402(a) (2), the article, in four cases, contained an added poisonous or deleterious substance which was unsafe within the meaning of Section 406, and, in one case, the article was a raw agricultural commodity and contained a pesticide chemical which was unsafe within the meaning of Section 408(a); Section 402(a) (3), the article consisted in part of a filthy or decomposed substance, or it was otherwise unfit for food; Section 402(a) (4), the article had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth; Section 402(b) (1), a valuable constituent had been in whole or in part omitted or abstracted from the article; Section 402(b) (2), a substance had been substituted wholly or in part for the article; Section 402(b) (4), a substance had been added to the article or mixed or packed therewith so as to increase its bulk or weight or reduce its quality; Section 402(e), the article was butter and the raw material used therein consisted in whole or in part of a decomposed substance; Section 406(a), a poisonous or deleterious substance was added to food when such substance was not required in the production thereof and could have been avoided by good manufacturing practice; or a poisonous or deleterious substance required in the production of the article was added to the article in a quantity which exceeded the tolerance prescribed by regulations for such substance on the article; and Section 408(a), a poisonous or deleterious pesticide chemical had been added to a raw agricultural commodity; and no tolerance or exemption from the requirement of a tolerance had been prescribed by the Secretary of Health, Education, and Welfare.

Misbranding, Section 403(a), the labeling of the article was false and misleading; Section 403(e), the article was in package form, and it failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor, and (2) an accurate statement of the quantity of contents in terms of weight, measure, or numerical count; Section 403(g), the article purported to be and was represented as a food for which a definition and standard of identity had been prescribed by regulations, and (1) it failed to conform to such definition and standard; and (2) its label failed to bear the name of the food specified in the definition and standard; Section 403(h) (1), the article purported to be and was represented as a food for which a standard of quality has been prescribed by regulations, and it fell below such standard and its label failed to bear a statement that it fell below such standard; Section 403(i), the article was not subject to the provisions of Section 403(g), and (1) its label failed to bear the common or usual name of the food; and (2), it was fabricated from two or more ingredients and its label failed to bear the common name of each such ingredient; Section 403(j), the article purported to be and was represented for special dietary uses, and its label failed to bear such information concerning its vitamin, mineral, and other dietary properties as the Secretary has determined to be, and by regulations prescribed as, necessary in order fully to inform purchasers as to its value for such uses; Section 403(k), the article contained a chemical preservative, and its label failed to state that fact.

BEVERAGES AND BEVERAGE MATERIALS*

25651. Green coffee beans. (F.D.C. No. 43173. S. No. 32-220 P.)

QUANTITY: 40 160-lb. bags at New York, N.Y.

SHIPPED: 4-20-59, from Freehold, N.J., by Millhurst Mills.

LIBELED: 6-18-59, S. Dist. N.Y.

CHARGE: 402(b)(2)—when shipped, husks had been substituted in whole or in part for coffee beans.

DISPOSITION: 7-8-59. Default—destruction.

25652. Ground coffee. (F.D.C. No. 43028. S. No. 48-670 P.)

QUANTITY: 18 cases, 24 cans each, at Colma, Calif.

SHIPPED: 10-14-58, from New York, N.Y., by Nathor Coffee Roasting Corp.

LABEL IN PART: (Can) "Happy Day Coffee One Pound Net * * * Love Nest Products Co., Inc., New York 5, N.Y."

RESULTS OF INVESTIGATION: Examination showed that the article was short weight.

LIBELED: 5-26-59, N. Dist. Calif.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents since the label statement "One Pound Net" was inaccurate.

DISPOSITION: 6-29-59. Default—delivered to a Federal institution for its use and not for sale.

25653. Tea. (F.D.C. No. 42915. S. No. 57-567 P.)

QUANTITY: 5 chests, 600-lb. total, at New York, N.Y.

SHIPPED: On an unknown date, from outside the United States.

RESULTS OF INVESTIGATION: Examination of the article showed that it had an oily odor and contained partially spent leaves; when brewed, a thin oil-like film formed on top; the brew had an odor resembling the odor of burlap, and the article was unpalatable and unfit for food.

LIBELED: On or about 4-20-59, S. Dist. N.Y.

CHARGE: 402(b)(1)—while held for sale, a valuable constituent, tea, had been in whole or in part abstracted from the article; and 402(a)(3)—consisted in whole or in part of a substance which was unfit for food.

DISPOSITION: 5-22-59. Default—destruction.

CEREALS AND CEREAL PRODUCTS**FLOUR**

25654. Flour. (F.D.C. No. 42562. S. No. 32-278/9 P.)

QUANTITY: 348 100-lb bags at Passaic, N.J., in possession of H. R. Walker & Sons.

SHIPPED: 8-27-58 and 10-17-58, from Buffalo, N.Y.

LIBELED: 12-11-58, Dist. N.J.

*See also 25711.

CHARGE: 402(a)(3)—contained rodent urine and rodent excreta; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 1-26-59. Consent—claimed by H. R. Walker & Sons. Segregated; 8,600 lbs. denatured for use as animal feed.

25655. Flour. (F.D.C. No. 42645. S. No. 25-299 P.)

QUANTITY: 81 100-lb. bags at Sioux City, Iowa, in possession of Pierce Terminal Warehouse.

LIBELED: 1-19-59, N. Dist. Iowa.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 2-12-59. Consent—claimed by International Milling Co., Minneapolis, Minn. Segregated; 575 lbs. denatured for use as animal feed.

25656. Flour. (F.D.C. No. 42628. S. Nos. 3-049/50 P.)

QUANTITY: 39 25-lb. bags and 20 50-lb. bags at Madison, Ga., in possession of McDowell Grocery Co.

SHIPPED: On unknown date, from El Reno, Okla.

LIBELED: 12-4-58, M. Dist. Ga.

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 2-17-59. Default—delivered to a public institution for use as animal feed.

25657. Flour. (F.D.C. No. 42766. S. Nos. 1-346 P, 44-232/3 P, 44-235 P.)

QUANTITY: 232 25-lb. bags at Quincy, Fla., in possession of Higdon Grocery Co.

SHIPPED: Between 11-10-58 and 11-20-58, from Minneapolis, Minn., Nashville, Tenn., and Greenville, Tex.

LIBELED: On or about 1-8-59, N. Dist. Fla.

CHARGE: 402(a)(3)—contained rodent urine and rodent excreta; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 2-12-59. Default—destruction.

25658. Flour. (F.D.C. No. 42759. S. Nos. 45-941/2 P.)

QUANTITY: 138 25-lb. bags at Baton Rouge, La., in possession of Louisiana Specialty Co.

SHIPPED: Between 10-14-58 and 11-25-58, from Wichita Falls, Tex.

LIBELED: On or about 1-2-59, E. Dist. La.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 3-2-59. Default—destruction.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS

25659. Brewers rice. (F.D.C. No. 42162. S. Nos. 31-523 P, 36-817 P.)

INFORMATION FILED: 10-28-58, E. Dist. Tex., against Beaumont Rice Mills, a corporation, Beaumont, Tex.

SHIPPED: 5-2-58 and 5-7-58, from Texas to New Jersey and Missouri.

CHARGE: 402(a)(4)—prepared under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 3-3-59. \$2,000 fine.

25660. Rice. (F.D.C. No. 41189. S. No. 57-923 M.)

INFORMATION FILED: 4-22-58, S. Dist. Fla., against Chitty & Co., Inc., and Thomas O. McCain, vice president.

ALLEGED VIOLATION: Between 2-27-57 and 4-25-57, while a quantity of rice was being held for sale after shipment in interstate commerce, the defendants caused the article to be placed in a building that was accessible to insects, rodents, and birds, and to be exposed to contamination by insects, rodents, and birds, which acts resulted in the article being adulterated.

CHARGE: 402(a)(3)—contained insects, rodent filth, and bird excrement; and 402(a)(4)—held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 8-27-59. The corporation was fined \$500 and the individual was placed on probation for 1 year.

25661. Rice. (F.D.C. No. 42746. S. No. 13-689 P.)

QUANTITY: 287 100-lb. bags at Chicago, Ill.

SHIPPED: 12-30-57, from Alvin, Tex.

LIBELED: 12-22-58, N. Dist. Ill.

CHARGE: 402(a)(3)—contained rodent urine and rodent excreta while held for sale.

DISPOSITION: 1-16-59. Consent—claimed by James Chiu and Yun T. Chao, t/a China Farm, Chicago, Ill. Segregated; 83 bags destroyed.

25662. Rice. (F.D.C. No. 42554. S. No. 44-313 P.)

QUANTITY: 738 10-lb. bags at Baxley, Ga., in possession of Tollison-Lynn Co.

SHIPPED: 9-18-58, from Houston, Tex.

LIBELED: 12-15-58, S. Dist. Ga.

CHARGE: 402(a)(3)—contained insects and rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 1-20-59. Consent—claimed by Tollison-Lynn Co. and converted into animal feed.

25663. Rice. (F.D.C. No. 42774. S. No. 16-129 P.)

QUANTITY: 7 100-lb. bags at Lexington, Ky.

SHIPPED: 10-8-58, from Carlisle, Ark.

LIBELED: 1-7-59, E. Dist. Ky.

CHARGE: 402(a)(3)—contained rodent urine, rodent pellets, and rodent hairs while held for sale.

DISPOSITION: 2-5-59. Default—destruction.

25664. Rice. (F.D.C. No. 42775. S. No. 44-073 P.)

QUANTITY: 77 25-lb. bags at Savannah, Ga., in possession of Corbin Bonded Warehouse.

SHIPPED: 10-13-58, from Houston, Tex.

LIBELED: 1-12-59, S. Dist. Ga.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 2-9-59. Default—delivered to a public institution for use as animal feed.

25665. Rice. (F.D.C. No. 42768. S. Nos. 44-136/7 P.)

QUANTITY: 366 10-lb. bags and 322 25-lb. bags at Brunswick, Ga., in possession of Leotis & Co., Inc.

SHIPPED: 11-7-58, from Stuttgart, Ark.

LIBELED: 1-30-59, S. Dist. Ga.

CHARGE: 402(a)(3)—contained rodent urine, (10-lb. bags) insect larvae, and (25-lb. bags) rodent hairs and rodent excreta; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 3-4-59. Consent—claimed by Leotis & Co., Inc. Segregated; 564 bags denatured for use as animal feed.

25666. Wheat. (F.D.C. No. 42594. S. No. 22-058 P.)

QUANTITY: 81,780 lbs. at Kansas City, Kans.

SHIPPED: 12-17-58, from Argonia, Kans., by Continental Grain Co., to Kansas City, Mo., from where it was reshipped to Kansas City, Kans.

LIBELED: 1-5-59, Dist. Kans.

CHARGE: 402(a)(3)—contained rodent pellets when shipped; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 1-7-59. Consent—claimed by Continental Grain Co. Segregated; 3,700 lbs. denatured.

25667. Wheat. (F.D.C. No. 42676. S. No. 9-876 P.)

QUANTITY: 90,775 lbs. at Buffalo, N.Y.

SHIPPED: 1-16-59, from Adrian, Mich., by Schuster & Co.

LIBELED: 1-29-59, W. Dist. N.Y.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 2-2-59. Consent—claimed by Cutler-Dickerson Co., Adrian, Mich., and reprocessed for use as animal feed.

25668. Wheat. (F.D.C. No. 42700. S. No. 10-634 P.)

QUANTITY: 108,000 lbs. at Buffalo, N.Y.

SHIPPED: 2-3-59, from Ida, Mich., by George E. Amendt.

LIBELED: 2-13-59, W. Dist. N.Y.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 2-26-59. Consent—claimed by Ida Farmers Cooperative Co., Ida, Mich., and converted into animal feed.

25669. Wheat. (F.D.C. No. 42701. S. No. 27-547 P.)

QUANTITY: 100,000 lbs. at Minneapolis, Minn.

SHIPPED: 2-2-59, from Greenway, S. Dak., by Emil Perman Elevator.

LIBELED: 2-16-59, Dist. Minn.

CHARGE: 402(a)(2)—when shipped, the article was a raw agricultural commodity and contained a pesticide chemical, namely, a mercurial compound, which is unsafe within the meaning of 408 since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat has been prescribed by regulations.

DISPOSITION: 2-19-59. Consent—claimed by Perman and Ed Odenbach, t/a Emil Perman Elevator, Greenway, S. Dak. Segregated; 18,220 lbs. destroyed.

25670. Wheat. (F.D.C. No. 42731. S. No. 10-238 P.)

QUANTITY: 83,400 lbs. at Buffalo, N.Y.

SHIPPED: 2-25-59, from Norwalk, Ohio, by Huron Farm Bureau Cooperative Association.

LIBELED: 3-5-59, W. Dist. N.Y.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 3-11-59. Consent—claimed by Farm Bureau Cooperative Association, Columbus, Ohio, and converted into animal feed.

25671. Unpopped popcorn. (F.D.C. No. 42634. S. Nos. 10-203/4 P.)

QUANTITY: 218 cases, 12 2-lb. bags each, and 85 cases, 6 4-lb. bags each, at Buffalo, N.Y.

SHIPPED: 9-13-58, from Indianapolis, Ind.

LIBELED: 12-9-58, W. Dist. N.Y.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 1-13-59. Default—destruction.

25672. Unpopped popcorn. (F.D.C. No. 42615. S. No. 10-200 P.)

QUANTITY: 43 cases, 12 2-lb. bags each, at Olean, N.Y.

SHIPPED: 9-25-58, from Indianapolis, Ind.

LIBELED: 12-4-58, W. Dist. N.Y.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 1-13-59. Default—destruction.

25673. Unpopped popcorn. (F.D.C. No. 42639. S. No. 10-709 P.)

QUANTITY: 20 cases, 24 bags each, at Cortland, N.Y.

SHIPPED: 10-2-58, from Lincoln, Nebr.

LIBELED: 12-15-58, N. Dist. N.Y.

CHARGE: 402(a)(3)—contained insects and rodent excreta while held for sale.

DISPOSITION: 1-30-59. Default—destruction.

DAIRY PRODUCTS

BUTTER

25674. Butter. (F.D.C. No. 43056. S. Nos. 25-676 P, 25-880 P.)

INFORMATION FILED: 4-21-59, Dist. Nebr., against Frank J. Figge, t/a West Point Creamery, West Point, Nebr.

SHIPPED: 7-30-58 and 9-20-58, from Nebraska to Minnesota.

LABEL IN PART: (Ctn) "Creamery Butter West Point Creamery West Point Nebr. Net. Wt. 64 Lbs."

CHARGE: 402(b)(1)—when shipped, a valuable constituent, milk fat, had been in part omitted from the article; and 402(b)(2)—a product which contained less than 80 percent by weight of milk fat had been substituted for butter.

PLEA: Nolo contendere.

DISPOSITION: 5-21-59. \$150 fine, plus costs.

25675. Butter. (F.D.C. No. 41135. S. No. 58-171 P.)

QUANTITY: 8 64-lb. ctns. at Jersey City, N.J.

SHIPPED: 7-9-59, from Cleveland, Ohio, by Stonehill Creameries.

LIBELED: On or about 7-30-59, Dist. N.J.

CHARGE: 402(b)(2)—when shipped, a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: 8-27-59. Default—delivered to a charitable institution for its use and not for sale.

25676. Butter. (F.D.C. No. 43496. S. No. 45-770 P.)

QUANTITY: 1,712 lbs. in bulk at Denver, Colo.

SHIPPED: A number of cans of cream were shipped on 8-8-59 and 8-9-59, from Kansas, Nebraska, and Wyoming.

RESULTS OF INVESTIGATION: Examination showed that the butter was made from decomposed cream which had been shipped as described above.

LIBELED: 8-12-59, Dist. Colo.

CHARGE: 402(a)(3)—the article consisted in part of a decomposed substance by reason of its having been made from decomposed cream; and 402(e)—the article was butter, and the raw material used therein consisted of decomposed cream.

DISPOSITION: 8-27-59. Consent—delivered to a public institution for use as animal feed.

CHEESE

25677. Swiss cheese. (F.D.C. No. 42947. S. No. 27-557 P.)

QUANTITY: 55 120-lb. blocks at Monroe, Wis.

SHIPPED: 12-15-58, from Smithfield, Utah, by Cache Valley Dairy Association.

LIBELED: On or about 3-25-59, W. Dist. Wis.

CHARGE: 402(a)(3)—contained rodent-gnawed cheese, dirt, rodent excreta, and moldy cheese when shipped.

DISPOSITION: 6-16-59. Default—denatured and sold as bait.

MISCELLANEOUS DAIRY PRODUCT

25678. Nonfat dry milk. (F.D.C. No. 43021. S. No. 21-637 P.)

QUANTITY: 20 bags at Lincoln, Nebr., in possession of Star Van & Storage Co., Inc.

SHIPPED: 11-20-58, from State Center, Iowa.

LIBELED: 5-21-59, Dist. Nebr.

CHARGE: 402(a)(4)—held under insanitary conditions.

DISPOSITION: 6-22-59. Default—delivered to a State institution, for use as animal feed.

EGGS

25679. Frozen eggs. (F.D.C. No. 41947. S. Nos. 7-364/5 P.)

QUANTITY: 200 30-lb. cans at Providence, R.I.

SHIPPED: 6-26-58 and 7-2-58, from Fall River, Mass., by Berman & Son.

LIBELED: 7-28-58, Dist. R.I.

CHARGE: 402(a)(3)—when shipped, contained decomposed eggs; 403(e)—the article failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor, and (2) an accurate statement of the quantity of contents; and 403(g)(2)—the label of the article failed to bear the name of the food specified in the definition and standard of identity for frozen whole eggs.

DISPOSITION: 8-18-58. Claimed by Max Berman, t/a Berman & Son. Segregated; 38 cans denatured for technical use.

25680. Frozen eggs. (F.D.C. No. 42744. S. Nos. 32-201 P, 32-943 P.)

QUANTITY: 280 30-lb. cans at New York, N.Y.

SHIPPED: 9-27-58 and 11-8-58, from Miami, Fla., by Arthur Redmond Co.

LABEL IN PART: "Kirtex Whole Eggs, yolks, stabilizing syrup, maltose, dextrine, dextrose and water. Distributed by Arthur Redmond Company, Div. of Dexter Bishop Co., Inc." and "Frozen Whole Eggs Distributed by Arthur Redmond Company, New York, N.Y."

LIBELED: 1-14-59, S. Dist. N.Y.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 2-16-59. Consent—claimed by Dexter Bishop Co., Inc., New York, N.Y. Segregated; 106 cans destroyed.

25681. Frozen eggs. (F.D.C. No. 42509. S. No. 32-717 P.)

QUANTITY: 600 30-lb. cans at Brooklyn, N.Y.

SHIPPED: 10-20-58, from Lakeland, Fla., by Superior Frozen Foods, Inc.

LABEL IN PART: "Frozen Whole Eggs Packed for Independent Food Products" or "Frozen Whole Eggs Packed for L. Rudolph Co., Inc. * * * New York City, N.Y."

LIBELED: 12-1-58, E. Dist. N.Y.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 6-2-59. Default—destruction.

25682. Frozen eggs. (F.D.C. No. 42937. S. No. 1-460 P.)

QUANTITY: 40 30-lb. cans at Atlanta, Ga.

SHIPPED: 2-5-59, from Nashville, Tenn., by Modern Egg Products.

LABEL IN PART: "Superior Brand Whole Eggs * * * Distributed by Superior Eggs, Inc. Atlanta, Georgia."

LIBELED: 4-13-59, N. Dist. Ga.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 6-10-59. Default—destruction.

25683. Frozen eggs. (F.D.C. No. 42831. S. Nos. 3-106/7 P.)

QUANTITY: 640 30-lb. cans at Miami, Fla.

SHIPPED: Shell eggs were shipped on 1-29-59 and 1-30-59, from Goshen, Ind., by Indiana Egg Co., to Superior Frozen Foods, Inc., Lakeland, Fla., and were used in preparing the frozen eggs which were shipped to Miami, Fla., by Superior Frozen Foods, Inc., on 2-4-59.

LABEL IN PART: "Whole Eggs."

LIBELED: 2-10-59, S. Dist. Fla.

CHARGE: 402(a)(3)—when shipped, contained decomposed eggs.

DISPOSITION: On 3-3-59, Mack Jewell, t/a Superior Frozen Foods, Inc., claimant, filed an answer denying that the article was adulterated. Subsequently, both the government and the claimant filed interrogatories, and thereafter, the claimant having consented, a decree was entered condemning and ordering the destruction of the article. The decree further enjoined the claimant and his agents or representatives and all persons in active concert or participation with him from doing the following acts:

(a) introducing into interstate commerce, eggs which have been broken out, and frozen or otherwise manipulated and which are, in whole or part, a product of shell eggs which have been incubated for the purpose of hatching chickens but which have failed to hatch or, of shell eggs which are otherwise adulterated.

(b) introducing into interstate commerce, shell eggs which have been incubated for the purpose of hatching chickens, but which have failed to hatch, or, of eggs which are otherwise adulterated.

(c) doing any act with respect to shell eggs or their contents, after shipment of such eggs in interstate commerce, which results in an adulterated food, while such food is held for sale.

25684. Frozen eggs. (F.D.C. No. 42793. S. No. 1-454 P.)

QUANTITY: 960 cans at Hilliard, Fla.

SHIPPED: 1-14-59, from Lakeland, Fla., by Superior Frozen Foods, Inc., to South Carolina and then returned to Hilliard, Fla.

LABEL IN PART: "Frozen Whole Eggs, Independent Food Products Co., Newark, N.J., 30 Lbs. Net Weight."

LIBELED: 1-16-59, S. Dist. Fla.; amended 2-13-59.

CHARGE: 402(a)(3)—when shipped, contained decomposed eggs.

DISPOSITION: 5-22-59. Mac Jewell, t/a Superior Frozen Foods, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be destroyed or released to the claimant under bond for segregation and denaturing of the unfit portion for industrial uses or use in animal feed. The claimant failed to post bond and the condemned article was destroyed on 6-18-59.

25685. Powdered scrambled eggs. (F.D.C. Nos. 42827, 42902. S. Nos. 19-591/2 P.)

QUANTITY: 24 65-envelope ctns., and 1 59-envelope ctn. of bacon-flavored powdered scrambled eggs, and 34 65-envelope ctns., and 35 60-envelope ctns. of ham-flavored powdered scrambled eggs, at Cimarron, N. Mex.

SHIPPED: Between 6-27-58 and 7-21-58, from San Jose, Calif., by Bernard Food Industries, Inc.

LABEL IN PART: "Bernard * * * 4 Man Ham [or "Bacon"] Flavored Scrambled Eggs Kamp Pack * * * Net Weight 4 ounces * * * Mfd and Packed by Bernard Food Industries, Inc., Chicago, Ill. - San Jose, Calif."

LIBELED: 4-1-59, Dist. N. Mex.

CHARGE: 402(a)(1)—when shipped, the article contained viable salmonella organisms, a deleterious substance which may have rendered it injurious to health.

DISPOSITION: 5-4-59. Default—destruction.

FISH AND SHELLFISH

25686. Frozen whitefish. (F.D.C. No. 43199. S. Nos. 79-994/5 P.)

QUANTITY: 21 60-lb. boxes at Detroit, Mich.

SHIPPED: 6-16-59, from Winnipeg, Canada, by Canadian Fish Producers, Ltd.

LABEL IN PART: "Island Lake Manitoba."

LIBELED: 6-26-59, E. Dist. Mich.

CHARGE: 402(a)(3)—contained parasitic cysts when shipped.

DISPOSITION: 8-6-59. Consent—claimed by Salasnek Fisheries, Inc., Detroit, Mich., and exported to original foreign supplier in Canada in lieu of destruction.

25687. Frozen whitefish. (F.D.C. No. 43143. S. No. 11-505 P.)

QUANTITY: 15 boxes containing 724 lbs. at Chicago, Ill.

SHIPPED: 4-25-59, from Winnipeg, Canada, by Canadian Fish Producers, Ltd.

LABEL IN PART: "Island Lake Product of Canada Lge."

LIBELED: 5-8-59, N. Dist. Ill.

CHARGE: 402(a)(3)—contained parasitic cysts when shipped.

DISPOSITION: 6-16-59. Default—destruction.

25688. Frozen whitefish fillets. (F.D.C. No. 43168. S. Nos. 33-531/2 P.)

QUANTITY: 122 ctns., 10 10-lb. pkgs. each, at Newark, N.J.

SHIPPED: 5-4-59, from Detroit, Mich.

LIBELED: 6-4-59, Dist. N.J.

CHARGE: 402(a)(3)—while held for sale, contained rancid, decomposed fish fillets.

DISPOSITION: 7-29-59. Default—destruction.

25689. Frozen haddock fillets. (F.D.C. No. 42988. S. No. 26-997 P.)

QUANTITY: 23 cases, 48 pkgs. each, at Minneapolis, Minn.

SHIPPED: 3-1-59, from Lunenburg, Nova Scotia, by Lunenburg Sea Products, Ltd.

LABEL IN PART: (Pkg.) "Fancy Quality Frozen Fillets Haddock Contents 1 Lb. * * * Packed By Lunenburg Sea Products Limited, Lunenburg, Nova Scotia Product of Canada."

LIBELED: 4-22-59, Dist. Minn.

CHARGE: 402(a)(2)—when shipped, the article contained sodium nitrite, an added poisonous and deleterious substance which is unsafe within the meaning of 406; 403(i)(2)—the label of the article failed to contain the common or usual name of each ingredient; and 403(k)—the article contained sodium nitrite, a chemical preservative, and it failed to bear a label stating that fact.

DISPOSITION: 6-10-59. Default—destruction.

25690. Frozen smelts. (F.D.C. No. 43139. S. No. 51-216 P.)

QUANTITY: 1,139 cases, 12 16-oz. pkgs. each, at Chicago, Ill.

SHIPPED: 3-8-59, from Wheatley, Ontario, Canada, by Omstead Fisheries.

LABEL IN PART: (Pkg.) "Booth * * * Frozen Pan Ready Smelts * * * Headless, Dressed * * * Packed by Booth Fisheries Canadian Co. Ltd. * * * Chicago, Illinois."

LIBELED: 5-4-59, N. Dist. Ill.

CHARGE: 402(a) (2)—when shipped, the article contained an added poisonous and deleterious substance, sodium nitrite, which is unsafe within the meaning of Section 406.

DISPOSITION: 6-4-59. Default—destruction.

25691. Frozen red snappers (fish). (F.D.C. No. 43145. S. Nos. 32-214/5 P, 33-525/6 P.)

QUANTITY: 1,652 lbs. at Monmouth Beach, N.J.

SHIPPED: Between 6-9-58 and 2-13-59, from New York, N.Y.

LIBELED: 5-18-59, Dist. N.J.

CHARGE: 402(a) (3)—contained decomposed fish while held for sale.

DISPOSITION: 6-17-59. Default—destruction.

25692. Frozen red snappers (fish). (F.D.C. No. 43279. S. No. 33-537 P.)

QUANTITY: 13 ctns., 623 lbs. total, at New York, N.Y.

SHIPPED: The fish were frozen and repacked from fish shipped unfrozen from Pascagoula, Miss., on 8-8-58.

LIBELED: 7-8-59, S. Dist. N.Y.

CHARGE: 402(a) (3)—contained decomposed fish while held for sale.

DISPOSITION: 7-31-59. Default—destruction.

25693. Frozen red snappers (fish). (F.D.C. No. 43282. S. Nos. 33-538/9 P.)

QUANTITY: 5 ctns., 442 lbs. total, and 781 lbs., at New York, N.Y.

SHIPPED: The fish were frozen from fish shipped unfrozen from West Palm Beach and Tampa, Fla.

LIBELED: 7-8-59, S. Dist. N.Y.

CHARGE: 402(a) (3)—contained a decomposed substance while held for sale.

DISPOSITION: 7-31-59. Default—destruction.

25694. Frozen tullibeas. (F.D.C. No. 43146. S. No. 11-506 P.)

QUANTITY: 50 boxes containing 5,750 lbs. at Chicago, Ill.

SHIPPED: 5-2-59, from Winnipeg, Canada, by Canadian Fish Producers, Ltd.

LABEL IN PART: "Product of Canada Dauphin Lake."

LIBELED: 5-14-59, N. Dist. Ill.

CHARGE: 402(a) (3)—when shipped, contained parasitic cysts.

DISPOSITION: 6-12-59. Consent—claimed by Pick-Shapiro Fisheries, Inc., Chicago, Ill., and returned to the shipper in Canada.

25695. Canned crabmeat. (F.D.C. No. 41132. S. No. 5-952 P.)

QUANTITY: 5 boxes, 50 cans each, at Baltimore, Md.

SHIPPED: 5-24-59, from Bayou La Batre, Ala., by Graham Seafood Co.

LABEL IN PART: (Can) "Graham Brand Fresh Crab Meat Packed by Graham Seafood Co. Bayou La Batre, Ala. Net Contents 1 Pound Ala."

RESULTS OF INVESTIGATION: Examination showed that the article was short weight.

LIBELED: 5-25-59, Dist. Md.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents since the label statement "Net Contents 1 Pound" was inaccurate.

DISPOSITION: 6-25-59. Default—destruction.

25696. Canned shrimp. (F.D.C. No. 43278. S. No. 46-832 P.)

QUANTITY: 492 cases, 24 5-oz. cans each, at New York, N.Y.

SHIPPED: 5-13-59, from Biloxi, Miss., by Humphreys Canning Co.

LABEL IN PART: (Can) "Delta-Maid Shrimp * * * Distributed by Humphreys Seafood Co. New Orleans, La."

LIBELED: 7-8-59, S. Dist. N.Y.

CHARGE: 402(b)(2)—when shipped, broken pieces of shrimp had been substituted in part for shrimp; and 403(a)—the vignette on the label depicting whole shrimp and the label statement "Shrimp" were false and misleading.

DISPOSITION: 8-6-59. Consent—claimed by Humphreys Canning Co., New York, N.Y., and relabeled.

25697. Frozen shrimp. (F.D.C. No. 43392. S. Nos. 46-696 P, 46-698 P.)

QUANTITY: 48 cases, 10 5-lb. ctns. each, at New Orleans, La.

SHIPPED: 5-5-59, from San Salvador, El Salvador.

LIBELED: 7-10-59, E. Dist. La.

CHARGE: 402(a)(3)—contained decomposed shrimp while held for sale.

DISPOSITION: 7-27-59. Consent—claimed by Charles B. Poillion, t/a Crescent Shrimp Co., Jefferson, La. Segregation proved to be unsatisfactory and the article was subsequently destroyed.

25698. Oysters. (F.D.C. No. 43077. S. No. 6-049 P.)

INFORMATION FILED: 4-2-59, Dist. Md., against Lawson Oyster Co., a partnership, Crisfield, Md., and Horace Dameron and Norman E. Lawson, partners.

SHIPPED: 12-9-58, from Maryland to North Carolina.

LABEL IN PART: (Can) "Lawson Brand Oysters Packed By Lawson Oyster Co. Crisfield, Md. Contents 1 Gallon."

CHARGE: 403(g)(1)—when shipped, the article failed to conform to the definition and standard of identity for oysters since the oysters as prepared were in contact with water, or salt water containing less than 0.75 percent salt, for more than 30 minutes after leaving the shucker.

PLEA: Guilty—by the partnership and Dameron; nolo contendere—by Lawson.

DISPOSITION: 5-15-59. Fines of \$250 against the partnership and \$1 against each individual, plus costs.

25699. Oysters. (F.D.C. No. 43071. S. No. 5-702 P.)

INFORMATION FILED: 4-20-59, Dist. Md., against Bernard P. Murphy, t/a W. C. Dean & Co., Wingate, Md.

SHIPPED: 12-15-58, from Maryland to New York.

LABEL IN PART: (Can) "Oysters 12 Fl. Ozs. W. C. Dean & Co. Wingate, Md."

CHARGE: 403(g)(1)—when shipped, the oysters failed to conform to the definition and standard of identity for oysters, in that they were not thoroughly drained, since they contained more than five percent of liquid when tested in accordance with the regulations.

PLEA: Nolo contendere.

DISPOSITION: 5-18-59. \$250 fine, plus costs.

25700. Oysters. (F.D.C. No. 43076. S. No. 5-801 P.)

INFORMATION FILED: 4-20-59, Dist. Md., against St. Michaels Oyster Co., a partnership, St. Michaels, Md., and Edward R. Morris, a partner.

SHIPPED: 12-13-58, from Maryland to Illinois.

LABEL IN PART. (Cans) "B&L BRAND OYSTERS BIVALVE OYSTER PACKING CO., BIVALVE, MD. DISTRIBUTORS MD. 281 CONTENTS ONE GALLON."

CHARGE: 403(g)(1)—when shipped, the oysters failed to conform to the definition and standard of identity for oysters, since the containers for the oysters upon being shucked were filled with excessive amounts of water or salt water, and the total time the oysters were in contact with water or salt water after leaving the shucker, was more than 30 minutes.

PLEA: Guilty.

DISPOSITION: 6-6-59. Partnership and individual each fined \$125.

FRUITS AND VEGETABLES

CANNED FRUIT

25701. Canned sliced apples. (F.D.C. No. 42574. S. No. 6-168 P.)

QUANTITY: 406 cases, 6 #10-size cans each, at Washington, D.C.

SHIPPED: 10-28-58, from Berryville, Va., by H. F. Byrd, Inc.

LIBELED: 12-16-58, Dist. Columbia.

CHARGE: 402(a)(3)—contained a decomposed substance when shipped; 403(e)(1) and (2)—the article failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor and an accurate statement of the quantity of the contents; and 403(i)(2)—the article was fabricated from two or more ingredients, and its label failed to contain the common or usual name of each such ingredient.

DISPOSITION: 2-4-59. Consent—claimed by H. F. Byrd, Inc. Segregated; good portion relabeled, and 91½ cases destroyed.

25702. Canned peaches. (F.D.C. No. 42679. S. No. 37-357 P.)

QUANTITY: 1,746 cases, 24 cans each, at Memphis, Tenn.

SHIPPED: 10-28-58, from Modesto, Calif., by Robert Boyer Co., Inc.

LABEL IN PART: (Can) "Frontier Halves Yellow Freestone Peaches * * * Packed For Soule, Gibbs & Boyer, San Francisco, Calif. * * * Net Wt. 1 Lb. 13 Oz."

LIBELED: 1-30-59, W. Dist. Tenn.

CHARGE: 402(a)(3)—contained insects, insect parts, and insect eggs; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 6-9-59. Consent—claimed by Robert B. Boyer, Modesto, Calif. Segregated; 401 cans destroyed.

25703. Canned peaches. (F.D.C. No. 43116. S. No. 6-235 P.)

QUANTITY: 774 cases, 6 cans each, at Baltimore, Md.

SHIPPED: 10-23-57, from San Francisco, Calif., by Tri-Valley Packing Association.

LIBELED: 4-21-59, Dist. Md.

CHARGE: 403(e)—when shipped, the article failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor and (2) an accurate statement of the quantity of the contents; and 403(i)—it failed to bear a label containing (1) the common or usual name of the food and (2) the common or usual name of each ingredient.

DISPOSITION: 8-18-59. Default—destruction. The article was not released for use as food because it was found to contain excessive peach pit fragments which could cause injury to the consumer.

25704. Strawberry puree. (F.D.C. No. 42668. S. Nos. 17-704 P, 17-706 P.)

QUANTITY: 1,184 cans at Cincinnati, Ohio.

SHIPPED: 7-18-58, from El Paso, Tex., by Rico, Inc.

LABEL IN PART: "Sunrise Brand Strawberry Puree Product of Mexico Packed for Rico, Inc., El Paso, Texas Net Weight 27 Lbs."

LIBELED: 1-26-59, S. Dist. Ohio.

CHARGE: 402(a)(3)—contained decomposed fruit when shipped.

DISPOSITION: 3-31-59. Default—destruction.

DRIED FRUIT

25705. Dried peaches. (F.D.C. No. 43166. S. No. 71-988 P.)

QUANTITY: 100 30-lb. ctns. at Charlotte, N.C.

SHIPPED: 5-5-59, from San Jose, Calif., by Sunsweet Growers, Inc.

LABEL IN PART: "Yellow Ribbon Varigrade Peaches Packed by California Prune & Apricot Growers Assn. San Jose, California."

LIBELED: 6-2-59, W. Dist. N.C.

CHARGE: 402(a)(3)—contained insect-infested peaches when shipped.

DISPOSITION: 6-24-59. Default—destruction.

25706. Prunes. (F.D.C. No. 43122. S. No. 5-681 P.)

QUANTITY: 22 cases, 24 1-lb. ctns. each, at Washington, D.C.

SHIPPED: Prior to 3-31-59, from Philadelphia, Pa.

LIBELED: 4-22-59, Dist. Columbia.

CHARGE: 402(a)(3)—contained insects and moldy prunes while held for sale.

DISPOSITION: 5-22-59. Default—destruction.

25707. Raisins. (F.D.C. No. 43188. S. No. 53-941 P.)

QUANTITY: 119 cases, 48 15 oz. pkgs. each, at North Little Rock, Ark.

SHIPPED: 4-15-59, from Dinuba, Calif., by Peloian Packing Co.

LABEL IN PART: (Pkg.) "Kroger Seedless Raisins * * * Distributed by The Kroger Co., Cincinnati 2, Ohio."

LIBELED: 6-16-59, E. Dist. Ark.

CHARGE: 402(a)(3)—contained moldy raisins and sand when shipped.

DISPOSITION: 7-8-59. Default—delivered to a public institution, for use as animal feed.

25708. Raisins. (F.D.C. No. 43152. S. No. 57-013 P.)

QUANTITY: 51 30-lb. ctns. at Jacksonville, Fla.

SHIPPED: 1-30-59, from Fresno, Calif.

LIBELED: 5-19-59, S. Dist. Fla.

CHARGE: 402(a)(3)—contained insect larvae and insect fragments while held for sale.

DISPOSITION: 6-29-59. Default—destruction.

FROZEN FRUIT

25709. Frozen strawberries. (F.D.C. No. 43379. S. No. 56-065 P.)

QUANTITY: 100 cases, 24 ctns. each, at Kansas City, Mo.

SHIPPED: 5-26-59, from Rogers, Ark., by Kelley Canning Co.

LABEL IN PART: (Ctn.) "Grove Brand Fresh Frozen Strawberries * * * Net Weight 10 oz. Packed by Kelley Canning Company, Prairie Grove, Arkansas."

RESULTS OF INVESTIGATION: Examination showed that the article was short weight.

LIBELED: On or about 6-30-59, W. Dist. Mo.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 8-20-59. Default—delivered to a charitable institution for its use and not for sale.

25710. Frozen strawberries. (F.D.C. No. 43319. S. Nos. 51-115 P, 51-117 P.)

QUANTITY: 94 30-lb. cans at Chicago, Ill.

SHIPPED: 5-25-59, from Searcy, Ark., by Whiteco, Inc.

LABEL IN PART: "Whiteco, Bald Knob Ark. Frozen Strawberries Whole."

LIBELED: 7-27-59, N. Dist. Ill.

CHARGE: (402)(a)(3)—contained rotten berries when shipped.

DISPOSITION: 8-20-59. Default—destruction.

MISCELLANEOUS FRUIT PRODUCT

25711. Orange juice. (F.D.C. No. 42717. S. No. 38-619 P.)

QUANTITY: 3,453 gals., 130 cases, 16 1-qt. ctns. each, 7 cases, 20 1-qt. ctns. each, and 1 case of 12 1-qt. btls., at Columbia, Mo.

SHIPPED: 2-21-59, from Houston, Tex., by Cal-Tex Citrus Juices, Inc.

LABEL IN PART: (Ctn. & Btl.) "Pevely Fresh Orange Juice * * * Orange Juice Has a Definite Place * * * 9,500 units Vitamin C per Quart * * * Distributed by the Pevely Dairy Co. St. Louis, Mo. Packed by Central States Processors Inc., Columbia, Mo."; or "Meadow Gold Fresh Orange Juice Packed by Central States Processors, Inc., Columbia, Mo. * * * Distrib-

uted by Beatrice Foods Co. * * * Chicago, Ill."; or "Vita Most Fresh Orange Juice * * * As Nature Made It Nothing Added * * * packed by Central States Processors Inc. Columbia Mo."

LIBELED: 2-25-59, W. Dist. Mo.

CHARGE: 402(b)(2)—when shipped, water had been substituted in part for orange juice; and 402(b)(4)—water had been added to the article or mixed or packed therewith so as to increase its bulk and reduce its quality.

DISPOSITION: 2-27-59 and 4-1-59. Default—destruction.

VEGETABLES AND VEGETABLE PRODUCTS

25712. Canned cut green beans. (F.D.C. No. 42653. S: Nos. 22-353 P, 55-603 P.)

QUANTITY: 708 cases, 24 cans each, at Kansas City, Kans.

SHIPPED: 11-12-58, from Stilwell, Okla., by Stilwell Canning Co.

LABEL IN PART: (Can) "Perry Lou Short Cut Green Beans Contents 15½ Oz. * * * Packed by Stilwell Canning Co. Stilwell, Okla."

LIBELED: 1-8-59, Dist. Kans.

CHARGE: 403(h)(1)—when shipped, the quality of the article fell below the standard of quality for canned cut green beans since the article contained more than 6 unstemmed units per 12 ounces of drained weight, and its label failed to bear, as specified by the regulations, a statement that it fell below such standard.

DISPOSITION: 4-14-59. Consent—claimed by Stilwell Canning Co. and brought into compliance with the law.

25713. Canned cut green beans. (F.D.C. No. 42922. S. No. 5-232 P.)

QUANTITY: 224 cases, 24 cans each, at Rocky Mount, N.C.

SHIPPED: 10-14-58, from Hynson, Md., by John N. Wright, Jr.

LABEL IN PART: (Can) "Green-Glo Cut Green Beans Contents 15½ Oz. Avoir. Albert W. Sisk and Son Distributors * * * Preston, Maryland and Aberdeen, Maryland."

LIBELED: 4-23-59, E. Dist. N.C.

CHARGE: 403(h)(1)—when shipped, the quality of the article fell below the standard of quality for canned cut green beans since the article contained excessive seed, pieces of seed, and excessive fibrous material, and the label of the article failed to bear a statement that it fell below such standard.

DISPOSITION: 6-4-59. Default—destruction.

25714. Frozen spinach. (F.D.C. No. 42861. S. No. 47-620 P.)

QUANTITY: 1,248 cases, 12 pkgs. each, at Watertown, Mass.

SHIPPED: 10-6-58, from Walla Walla, Wash., by Birds Eye Division, General Foods Corp.

LABEL IN PART: (Pkg.) "Birds Eye Brand * * * Quick-Frozen Leaf Spinach Net Weight 3 pounds * * * Distributed by Birds Eye Division, General Foods Corporation."

LIBELED: 2-27-59, Dist. Mass.

CHARGE: 402(a)(2)—when shipped, the article contained an added poisonous and deleterious substance, DDT, which is unsafe within the meaning of 406 since the quantity of DDT contained on the article was greater than the tolerance prescribed by regulations for such pesticide chemical on fresh spinach.

DISPOSITION: 4-13-59. Default—destruction.

25715. Stuffed olives. (F.D.C. No. 42860. S. Nos. 21-750/1 P.)

QUANTITY: 148 cases, 12 jars each, at Kansas City, Mo.

SHIPPED: 12-18-58, from Chicago, Ill., by B. M. Reeves Co., Inc.

LABEL IN PART: (Jar) "Elna Brands Inc. Distributors, Chicago, Illinois * * * Dr. Wt. 16 [or "10"] Ozs. Avd. * * * Elna Spanish Olives Stuffed with Sweet Spanish Peppers."

RESULTS OF INVESTIGATION: Examination showed that most of the olives were not stuffed.

LIBELED: On or about 3-10-59, W. Dist. Mo.

CHARGE: 403(a)—when shipped, the label statement "Spanish Olives Stuffed with Sweet Spanish Peppers" was false and misleading.

DISPOSITION: 5-1-59. Consent—claimed by B. M. Reeves Illinois Corp., Chicago, Ill., and relabeled.

TOMATOES AND TOMATO PRODUCTS

25716. Canned tomatoes. (F.D.C. No. 42333. S. No. 11-728 P.)

QUANTITY: 1,800 cases, 24 cans each, at Detroit, Mich.

SHIPPED: 9-13-58, from Parksley, Va., by Coastal Foods Co.

LABEL IN PART: (Can) "Phillips Tomatoes * * * Contents 1 Lb. * * * Packed By Coastal Foods Co. * * * Cambridge, Md."

LIBELED: 10-21-58, E. Dist. Mich.

CHARGE: 402(a)(3)—contained fly eggs and maggots; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 7-16-59. Default—destruction.

25717. Canned tomatoes. (F.D.C. No. 42804. S. No. 47-459 P.)

QUANTITY: 479 cases, 24 1-lb. 3-oz. cans each, at Boston, Mass.

SHIPPED: 11-19-59, from Le Roy, N.Y., by Haxton Foods, Inc.

LABEL IN PART: (Can) "S. S. Pierce Co. Red Label Brand * * * Vine-Ripened - Hand Packed Tomatoes * * * Packed For S. S. Pierce Co. * * * Boston, Mass."

LIBELED: 1-23-59, Dist. Mass.

CHARGE: 402(a)(3)—contained decomposed tomato material when shipped.

DISPOSITION: 9-14-59. Default—destruction.

25718. Tomato cocktail. (F.D.C. No. 43120. S. Nos. 47-839 P, 47-848 P.)

QUANTITY: 293 cases, 12 btls. each, at East Hartford, Conn.

SHIPPED: 3-4-59 and 3-31-59, from Lockport, N.Y., by College Inn Food Products Corp.

LABEL IN PART: (Btl.) "College Inn Tomato Cocktail * * * Contents 1 Pt. 10 Fl. Oz. Made by College Inn Lockport Co., Inc., Lockport, N.Y."

LIBELED: 4-22-59, Dist. Conn.

CHARGE: 402(a)(3)—contained decomposed tomato material when shipped.

DISPOSITION: 6-20-59. Default—destruction.

25719. Tomato juice. (F.D.C. No. 42853. S. No. 47-619 P.)

QUANTITY: 48 cases, 12 cans each, at Dorchester, Mass.

SHIPPED: 1-31-59, from Oakfield, N.Y., by Haxton Foods, Inc.

LABEL IN PART: (Can) "Blue Boy Tomato Juice * * * Contents 1 Qt. 14 Fl. Oz. * * * Distributed by Haxton Foods, Inc., Oakfield, N.Y."

LIBELED: 2-20-59, Dist. Mass.

CHARGE: 402(a)(3)—contained decomposed tomato material when shipped.

DISPOSITION: 3-30-59. Default—destruction.

25720. Tomato juice. (F.D.C. No. 42711. S. No. 17-714 P.)

QUANTITY: 436 cases, 6 3-qt. cans each, at Cincinnati, Ohio.

SHIPPED: 9-5-58, from Hobbs, Ind.

LIBELED: 2-24-59, S. Dist. Ohio.

CHARGE: 402(a)(3)—contained a decomposed substance while held for sale.

DISPOSITION: 4-10-59. Default—destruction.

25721. Tomato juice. (F.D.C. No. 42971. S. No. 10-794 P.)

QUANTITY: 456 cases, 12 cans each, at Braddock, Pa.

SHIPPED: 3-12-59, from Sheridan, N.Y., by Sheridan Canning Co.

LABEL IN PART: (Can) "Lush'us Brand Tomato Juice * * * Contents 1 Qt. 14 Fl. Ozs. Distributed by Affiliated Food Distributors, Inc. * * * Chicago, Ill."

LIBELED: 4-7-59, W. Dist. Pa.

CHARGE: 402(a)(3)—contained decomposed tomato material when shipped.

DISPOSITION: 5-8-59. Default—destruction.

25722. Tomato soup. (F.D.C. No. 42691. S. No. 10-337 P.)

QUANTITY: 439 cases, 6 cans each, at McKeesport, Pa.

SHIPPED: 10-3-58, from Buffalo, N.Y., by Pfeiffer's Packing Co., Inc.

LABEL IN PART: (Can) "Pomco Condensed Tomato Soup * * * Contents 6 Lbs. 9 Ozs. Distributed By Potter-McCune Company, McKeesport, Pennsylvania."

LIBELED: 2-10-59, W. Dist. Pa.

CHARGE: 402(a)(3)—contained decomposed tomato material when shipped.

DISPOSITION: 4-8-59. Default—destruction.

MEAT PRODUCTS AND POULTRY

25723. Beef chop suey. (F.D.C. No. 41424. S. No. 85-290 M.)

QUANTITY: 94 cases, 12 14-oz. pkgs. each, at Chicago, Ill.

SHIPPED: 8-19-57, from Los Angeles, Calif.

LIBELED: 2-13-58, N. Dist. Ill.

CHARGE: 402(a)(3)—the article had a high bacterial count and had undergone thawing and refreezing while held for sale.

DISPOSITION: 3-11-58. Default—destruction.

25724. Frozen dressed rabbits. (F.D.C. No. 43155. S. No. 51-121 P.)

QUANTITY: 400 65-lb. boxes at Crystal Lake, Ill.

SHIPPED: 3-27-59, from Duluth, Minn.

LIBELED: 5-21-59, N. Dist. Ill.

CHARGE: 402(a)(3)—contained a decomposed substance while held for sale.

DISPOSITION: 6-26-59. Consent—claimed by Northern Cold Storage & Warehouse Co., Duluth, Minn. Segregated; 265 65-lb. ctns. and 4 bushels denatured.

25725. Frozen turkeys. (F.D.C. No. 43332. S. No. 72-026 P.)

QUANTITY: 406 ctns., 4 turkeys each, at Marshville, N.C.

SHIPPED: 6-12-59, from Central City, Nebr.

LIBELED: 8-4-59, W. Dist. N.C.

CHARGE: 402(a)(3)—contained decomposed turkeys while held for sale.

DISPOSITION: 9-4-59. Default—destruction.

NUTS

25726. Diced almonds. (F.D.C. No. 42642. S. No. 22-231 P.)

QUANTITY: 17 ctns. at Grand Island, Nebr.

SHIPPED: 9-23-58, from Chico, Calif., by Tri-Co. Almonds, Inc.

LABEL IN PART: "Packed by Tri-Co Almonds, Inc., Chico, Calif. Tri-Co Brand Diced Almonds 25 Lbs. Net."

LIBELED: 12-16-58, Dist. Nebr.

CHARGE: 402(a)(3)—contained insects and insect larvae when shipped.

DISPOSITION: 12-29-58. Consent—consumption by animals.

25727. Unshelled almonds (2 seizure actions). (F.D.C. Nos. 42624, 42625. S. Nos. 43-309/10 P, 44-917 P.)

QUANTITY: 77 cases, 24 14-oz. bags each, and 19 ctns., 24 14-oz. bags each, at Denver, Colo.

SHIPPED: Between 10-29-58 and 11-8-58, from Chico, Calif.

LIBELED: 12-5-58, Dist. Colo.

CHARGE: 402(a)(3)—contained insects, and moldy and gummy nuts while held for sale.

DISPOSITION: 2-3-59. Consent—claimed by Tri-Co. Almonds, Inc., Chico, Calif., and reconditioned by segregation and destruction of the unfit portion of the product.

25728. Shelled almonds. (F.D.C. No. 42797. S. No. 42-606 P.)

QUANTITY: 130 ctns. at Tacoma, Wash.

SHIPPED: 12-2-58, from Sacramento, Calif., by California Almond Growers Exchange.

LABEL IN PART: (Ctn.) "Blue Diamond Brand California Shelled Almonds Net Weight 25 Lbs. * * * Packed by California Almond Growers Exchange, Sacramento, California."

LIBELED: 1-22-59, W. Dist. Wash.

CHARGE: 402(a)(3)—contained *E. coli*; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 2-12-59. Consent—claimed by California Almond Growers Exchange. Segregated; 275 lbs. destroyed.

25729. Shelled almonds. (F.D.C. No. 42666. S. No. 9-498 P.)

QUANTITY: 275 cases, 24 cans each, at Buffalo, N.Y.

SHIPPED: 12-4-58, from Cleveland, Ohio, by California Almond Growers Exchange.

LABEL IN PART: (Can) "Net Weight 5 oz. Buttered (Roasted and Diced) Almonds Blue Diamond * * * Packed by California Almond Growers Exchange, Sacramento, Calif."

LIBELED: 1-22-59, W. Dist. N. Y.

CHARGE: 402(a)(3)—contained *E. coli*; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 3-5-59. Consent—claimed by California Almond Growers Exchange. The 41 cases actually seized were reconditioned resulting in the destruction of approximately 12 lbs.

25730. Unshelled filberts. (F.D.C. No. 42610. S. No. 27-405 P.)

QUANTITY: 185 cases, 24 1-lb. bags each, at Minneapolis, Minn.

SHIPPED: 11-3-58, from Portland, Oreg.

LIBELED: 12-3-58, Dist. Minn.

CHARGE: 402(a)(3)—contained insects and moldy nuts while held for sale.

DISPOSITION: 2-5-59. Consent—claimed by Hudson House, Inc., Portland, Oreg. The article was subsequently commingled with the article involved in the libel action reported in notice of judgment No. 25731. The commingled lot was reconditioned resulting in the destruction of 3,531 lbs of nuts as unfit.

25731. Unshelled filberts. (F.D.C. No. 42773. S. No. 51-302 P.)

QUANTITY: 18 100-lb. bags at Chicago, Ill.

SHIPPED: 11-2-58, from Portland, Oreg.

LIBELED: 1-2-59, N. Dist. Ill.

CHARGE: 402(a)(3)—contained insects and empty shells while held for sale.

DISPOSITION: 2-9-59 Consent—claimed by Hudson House, Inc., Portland, Oreg. The article was subsequently commingled with the article involved in the libel action reported in notice of judgment No. 25730. The commingled lot was reconditioned resulting in the destruction of 3,531 lbs. of nuts as unfit.

25732. Unshelled filberts. (F.D.C. No. 42644. S. No. 27-333 P.)

QUANTITY: 9 cases, 24 1-lb. bags each, at Minneapolis, Minn.

SHIPPED: 11-14-58, from Cornelius, Oreg.

LIBELED: 12-16-58, Dist. Minn.

CHARGE: 402(a)(3)—contained moldy and shriveled nuts, and empty shells while held for sale.

DISPOSITION: 2-27-59. Default—consumption by animals.

25733. Shelled filberts. (F.D.C. No. 43027. S. No. 27-476 P.)

QUANTITY: 49 176-lb. bags at St. Paul, Minn.

SHIPPED: 5-1-59, from New York, N.Y., by Zaloom Bros. Co., Inc.

LABEL IN PART: "Turkiye Standard No. 1 Findik 1958 Sitki Baciiioglu Okdo."

LIBELED: 5-22-59, Dist. Minn.

CHARGE: 402(a) (3)—contained moldy and rancid nuts when shipped.

DISPOSITION: 6-17-59. Consent—claimed by Fisher Nut Co., St. Paul, Minn. Segregated; 140 lbs. destroyed.

25734. Shelled peanuts. (F.D.C. No. 42674. S. No. 45-504 P.)

QUANTITY: 12 120-lb. bags at Denver, Colo., in possession of Bluhill-Nevada, Inc.

SHIPPED: 12-4-58, from Franklin, Va.

LIBELED: 1-30-59, Dist. Colo.

CHARGE: 402(a) (3)—contained rodent hairs and rodent excreta; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 3-10-59. Default—consumption by animals.

25735. Shelled peanuts. (F.D.C. No. 42713. S. No. 53-917 P.)

QUANTITY: 6 124-lb. bags at Fort Smith, Ark., in possession of B & B Candy Co.

SHIPPED: 10-16-58, from Okmulgee, Okla.

LIBELED: 2-24-59, W. Dist. Ark.

CHARGE: 402(a) (3)—contained rodent urine and rodent excreta pellets; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 5-27-59. Default—destruction.

25736. Unshelled walnuts. (F.D.C. No. 42764. S. No. 42-173 P.)

QUANTITY: 41 100-lb. bags at Seattle, Wash.

SHIPPED: 11-17-58, from Chico, Calif.

LIBELED: 1-6-59, W. Dist. Wash.

CHARGE: 402(a) (3)—contained insects and moldy nuts while held for sale.

DISPOSITION: 2-25-59. Consent—claimed by Continental Nut Co., Chico, Calif. Segregated; 142 lbs. destroyed.

OILS AND FATS

25737. Olive oil. (F.D.C. No. 41246. S. No. 59-665 M.)

QUANTITY: 264 bottles at Gary, Ind.

SHIPPED: 10-30-57, from Nashville, Tenn., by National Co.

LABEL IN PART: "Contents 2 Fl. Oz. * * * Pure Imported Olive Oil For Table and Medicinal Use."

RESULTS OF INVESTIGATION: Examination of the article disclosed the presence of camphorated oil, a poisonous and deleterious substance.

LIBELED: 12-26-57, N. Dist. Ind.

CHARGE: 402(a) (2)—the article contained, when shipped, an added poisonous and deleterious substance, camphorated oil, which is unsafe within the meaning of 406.

The article was alleged also to be adulterated under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 5602.

DISPOSITION: 2-11-58. Default—destruction.

25738. Olive oil. (F.D.C. No. 42815. S. Nos. 30-013 P, 31-639 P.)

QUANTITY: 3 55-gal. drums at Ozone Park, N.Y.

SHIPPED: 10-16-58, from Italy, by Raffineria Bruzia.

LIBELED: 2-5-59, E. Dist. N.Y.

CHARGE: 402(b) (2)—when shipped, tea seed oil had been substituted in whole or in part for olive oil.

DISPOSITION: 3-25-59. Default—destruction.

25739. Table and cooking oil. (F.D.C. No. 42923. S. No. 47-389 P.)

QUANTITY: 14 cases, 6 1-gal. cans each, at Medford, Mass.

SHIPPED: The soya oil ingredient of the article was shipped on 2-4-59, from Decatur, Ill., and the olive oil ingredient of the article was shipped prior to 3-4-59, from outside the United States.

LABEL IN PART: (Can) "La Spagnola Brand Oil * * * 90% * * * Vegetable Oil and 10% Virgin Olive Oil Packed by Catania-Spagna Corporation, Somerville * * * Mass."

RESULTS OF INVESTIGATION: Examination showed that the article was essentially soya oil with little or no olive oil present. The article was manufactured from soya oil and olive oil shipped as described above.

LIBELED: 4-6-59, Dist. Mass.

CHARGE: 402(b) (2)—while held for sale, soya bean oil had been substituted in whole or in part for a blend of vegetable oil and olive oil; and 403(a)—the label statement "90% * * * Vegetable Oil and 10% * * * Olive Oil" was false and misleading.

DISPOSITION: 6-15-59. Default—destruction.

25740. Table and cooking oil. (F.D.C. No. 43020. S. No. 10-295 P.)

QUANTITY: 37 cases, 6 1-gal. cans each, at McKees Rocks, Pa.

SHIPPED: 1-23-59, from Decatur, Ill.

LABEL IN PART: (Can) "Net Contents One Gallon Milano Brand Refined Corn Oil * * * Deluxe Products, McKees Rocks, Pa."

RESULTS OF INVESTIGATION: The article was repacked into cans from bulk stock and labeled by the dealer. Examination showed that the article contained less than one gallon.

LIBELED: 5-18-59, W. Dist. Pa.

CHARGE: 403(e) (2)—the article failed to bear a label containing an accurate statement of the quantity of contents while held for sale.

DISPOSITION: 6-24-59. Consent—claimed by Joseph Benestelli, Allegheny County, Pa. The cans of the article were refilled so that they contained the amount declared on the label.

SPICES, FLAVORS, AND SEASONING MATERIALS

25741. Caraway seed. (F.D.C. No. 42550. S. No. 8-228 P.)

QUANTITY: 3 109-lb bags at Stamford, Conn., in possession of Karp Bros. Bakery.

SHIPPED: 4-1-58, from New York, N.Y.

LIBELED: 12-10-58, Dist. Conn.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 4-8-59. Default—destruction.

25742. Poppyseed. (F.D.C. No. 43038. S. No. 48-329 P.)

QUANTITY: 12 100-lb. bags at Oakland, Calif., in possession of Carlson Bakery & Confectionery Supply Co.

SHIPPED: 11-18-58, from Denmark.

LIBELED: 6-1-59, N. Dist. Calif.

CHARGE: 402(a)(3)—contained rodent urine and rodent pellets; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 6-29-59. Default—destruction.

25743. Sesame seed. (F.D.C. No. 42747. S. No. 40-837 P.)

QUANTITY: 128 100-lb. bags at Seattle, Wash.

SHIPPED: 5-14-58, from Managua, Nicaragua.

LIBELED: 12-30-58, W. Dist. Wash.

CHARGE: 402(a)(3)—contained insects, insect fragments, insect excreta, and insect webbing while held for sale.

DISPOSITION: 1-22-59. Consent—claimed by W. R. Grace & Co., Managua, Nicaragua. Segregated; 170 lbs. destroyed.

25744. Whole nutmegs. (F.D.C. No. 43128. S. No. 48-031 P.)

QUANTITY: 74 lbs. at Boston, Mass.

SHIPPED: During 1958, from outside the State of Massachusetts.

LIBELED: 4-27-59, Dist. Mass.

CHARGE: 402(a)(3)—contained moldy nutmegs while held for sale.

DISPOSITION: 6-8-59. Default—destruction.

25745. Black pepper. (F.D.C. No. 42901. S. Nos. 47-740 P, 48-101/2 P.)

QUANTITY: 8 cases, 12 1-lb. cans each; 8 cases, 12 4-oz. cans each; and 11 cases, 24 1-oz. cans each, at New Britain, Conn.

SHIPPED: 2-6-59, from Brooklyn, N.Y., by Safe Owl Products, Inc.

LABEL IN PART: (Can) "Safe Owl Finer Foods Pure Black Pepper."

RESULTS OF INVESTIGATION: Examination showed that the article consisted of ground black pepper with large amounts of ground buckwheat hulls.

LIBELED: 3-31-59, Dist. Conn.

CHARGE: 402(b)(2)—when shipped, ground buckwheat hulls had been substituted in whole or in part for black pepper; 402(b)(4)—ground buckwheat hulls had been added to the article or mixed or packed therewith so as to increase its bulk or weight and reduce its quality; and 403(a)—the label statement "Pure Black Pepper" was false and misleading.

DISPOSITION: 6-25-59. Default—delivered to a charitable institution.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE

25746. Vitamin tablets. (F.D.C. No. 43161. S. No. 49-437 P.)

QUANTITY: 23 120-tablet btls., 60 60-tablet btls., and 90 30-tablet btls., at Seattle, Wash.

SHIPPED: 9-6-56, from Hollywood, Calif.

RESULTS OF INVESTIGATION: Examination showed that the article contained approximately 88 percent of the declared amount of vitamin B₁, and approximately 75 percent of the declared amount of vitamin B₁₂.

LIBELED: 5-28-59, W. Dist. Wash.

CHARGE: 402(b)(1)—while held for sale, the valuable constituents, vitamin B₁ and vitamin B₁₂, had been in whole or in part omitted or abstracted from the article; and 403(a)—the label statement "Each * * * tablet contains: * * * Vitamin B₁ * * * 6.5 Mg. * * * Vitamin B₁₂ * * * 4 MCG." was false and misleading.

DISPOSITION: 6-29-59. Default—destruction.

25747. Vitamin tablets. (F.D.C. No. 43121. S. No. 42-360 P.)

QUANTITY: 97 30-tablet btls., 61 60-tablet btls., and 46 120-tablet btls., at Seattle, Wash.

SHIPPED: 7-13-56, from Hollywood, Calif.

RESULTS OF INVESTIGATION: Examination showed that the article contained approximately 6 percent of the declared amount of niacinamide.

LIBELED: 4-23-59, W. Dist. Wash.

CHARGE: 402(b)(1)—while held for sale, a valuable constituent, niacinamide, had been in whole or in part omitted or abstracted from the article; and 403(a)—the label statement "Each * * * tablet contains: * * * Niacinamide . . 35 Mg." was false and misleading.

DISPOSITION: 6-29-59. Default—destruction.

25748. Vitamin and mineral capsules. (F.D.C. No. 42931. S. Nos. 49-312/3 P.)

QUANTITY: 29 cases, 12 60-capsule cartoned btls. each, and 35 cases, 12 90-capsule cartoned btls. each, at Seattle, Wash.

SHIPPED: 2-14-58, from St. Louis, Mo.

RESULTS OF INVESTIGATION: Examination showed that the article (both lots) contained 80 percent of the declared amount of vitamin B₁₂ and the 90-capsule btl. lot contained 78 percent of the declared amount of vitamin B₁.

LIBELED: 4-10-59, W. Dist. Wash.

CHARGE: 402(b)(1)—while held for sale, valuable constituents, vitamin B₁₂ (both lots) and Vitamin B₁ (90-capsule btl. lot), had been in part omitted or abstracted from the article; and 403(a)—the label statements "Each * * * Gelucap Contains * * * Vitamin B₁₂ Activity * * * 5 mcg." (both lots) and "Each * * * Gelucap Contains * * * Vitamin B₁ . . 15 mg." (90-capsule btl. lots) were false and misleading.

DISPOSITION: 6-4-59. Default—destruction.

25749. Various vitamin products. (F.D.C. No. 42148. S. Nos. 60-580 M, 60-741 M, 69-013/7 M, 70-187 M, 76-510/12 M.)

INFORMATION FILED: 12-16-58, Dist. Mass., against Randolph Laboratories, Div. of Randolph Refining Corp., Wellesley, Mass., and Victor Mandorf, president and treasurer.

SHIPPED: Between 1-1-57 and 9-10-57, from Massachusetts to New Jersey, Connecticut, Pennsylvania, and New Hampshire.

LABEL IN PART: (Btl.) "Embee * * * CHEWABLE MULTIVITAMINS * * * Each tablet contains: * * * Vitamin B₁ 2 mg. * * * Ascorbic Acid 75 mg. * * * Niacinamide 10 mg."; "HIGH POTENCY * * * MULTIVITAMIN * * * contents of each capsule * * * Thiamin Chloride (B₁) 15 mg. * * * Ascorbic Acid 100 mg. * * * Nicotinamide 50 mg."; "Lennards' * * * CHEWABLE MULTIVITAMINS * * * Each tablet contains * * * Ascorbic Acid 75 mg. * * * Niacinamide 10 mg."; "Ethical * * * CHEWABLE MULTIVITAMINS * * * Each tablet contains * * * Ascorbic Acid 75 mg. * * * Niacinamide 10 mg."; "VITIMS * * * CHEWABLE MULTIVITAMINS * * * Each tablet contains: * * * Ascorbic Acid 75 mg. * * * Niacinamide 10 mg."; "Nault's Multiple Vitamins * * * Each Capsule Contains * * * Vitamin C (Ascorbic Acid, USP) 50 mg."; "NAULT'S * * * CHEWABLE MULTIVITAMINS * * * Each tablet contains: * * * Ascorbic Acid 75 mg."; "LENNARDS' HIGH POTENCY * * * MULTIVITAMIN * * * contents of each capsule * * * Thiamin Chloride (B₁) 15 mg. * * * Ascorbic Acid 100 mg. * * * Nicotinamide 50 mg."; "HIGH POTENCY * * * MULTIVITAMIN * * * contents of each capsule * * * Thiamin Chloride (B₁) 15 mg. * * * Ascorbic Acid 100 mg."

CHARGE: 403(a)—when shipped, the statements on the labels of the articles as set out above with respect to their vitamin content were false and misleading since the articles contained less than their labeled amounts of vitamin B₁ (thiamin chloride), ascorbic acid, niacinamide, and nicotinamide.

PLEA: Guilty.

DISPOSITION: 3-23-59. Corporation—\$1000 fine; individual—\$500 fine.

25750. Vitamin tablets. (F.D.C. No. 43337. S. No. 72-019 P.)

QUANTITY: 997 100-tablet btls. at Charlotte, N.C., in possession of Superior Products Co.

SHIPPED: The tablets were shipped in bulk on 2-20-59, from St. Louis, Mo.

LABEL IN PART: "Superior Vitamin B₁ Tablets * * * 100 Tablets Distributed by Superior Products Company."

RESULTS OF INVESTIGATION: After their arrival at Charlotte, N.C., the tablets were repacked by the dealer into bottles labeled as described above.

LIBELED: 8-10-59, W. Dist. N.C.

CHARGE: 403(a)—the label of the article, while held for sale, contained false and misleading representations that the article would provide abundant energy, good appetite, and sound steady nerves; and 403(j)—the article purported to be and was represented for special dietary use by reason of its vitamin content, and its label failed to bear, as required by regulations, a statement of the proportion of the minimum daily requirement for vitamin B₁ supplied by the article when consumed in a specified quantity during a period of one day.

DISPOSITION: 9-4-59. Default—destruction.

INDEX TO NOTICES OF JUDGMENT F.N.J. NOS 25651 TO 25750

PRODUCTS

	N.J. No.		N.J. No.
Almonds, diced_____	25726	Olive(s), stuffed_____	25715
shelled _____	25728, 25729	oil_____	25737, 25738
unshelled_____	25727	Orange juice_____	25711
Apples, sliced, canned_____	25701	Oysters _____	25698-25700
Beans, green, cut, canned_	25712, 25713	Peaches, canned_____	25702, 25703
Beef chop suey_____	25723	dried_____	25705
Beverages and beverage mate-		Peanuts, shelled_____	25734, 25735
rials_____	25651-25653, 25711	Pepper, black_____	25745
Brewers rice_____	25659	Popcorn, unpopped_____	25671-25673
Butter _____	25674-25676	Poppyseed_____	25742
Caraway seed_____	25741	Poultry. <i>See</i> Meat products and	
Cereals and cereal products____	25654-	poultry.	
	25673	Prunes_____	25706
Cheese, swiss_____	25677	Rabbits, dressed, frozen_____	25724
Chop suey, beef_____	25723	Raisins _____	25707, 25708
Coffee beans, green_____	25651	Rice _____	25660-25665
ground_____	25652	brewers_____	25659
Crabmeat, canned_____	25695	Sesame seed_____	25743
Dairy products_____	25674-25678	Shellfish. <i>See</i> Fish and shellfish.	
Eggs, frozen_____ ¹	25679-25684	Shrimp, canned_____	25696
scrambled, powdered_____	25685	frozen_____	25697
Fats. <i>See</i> Oils and fats.		Smelts, frozen_____	25690
Filberts, shelled_____	25733	Snappers, red, frozen (fish)___	25691-
unshelled_____	25730-25732		25693
Fish and shellfish_____	25686-25700	Spices, flavors, and seasoning	
Flavors. <i>See</i> Spices, flavors, and		materials_____	25741-25745
seasoning materials.		Spinach, frozen_____	25714
Flour _____	25654-25658	Strawberries, frozen_____	25709, 25710
Fruits and vegetables____	25701-25722	Strawberry puree_____	25704
fruit, canned_____	25701-25704	Swiss cheese_____	25677
dried_____	25705-25708	Tea_____	25653
frozen_____	25709, 25710	Tomato(es), canned_____	25716, 25717
miscellaneous fruit product_	25711	cocktail _____	25718
tomatoes and tomato prod-		juice_____	25719-25721
ucts_____	25716-25722	soup _____	25722
vegetables and vegetable prod-		Tullibeas, frozen_____	25694
ucts_____	25712-25715	Turkeys. <i>See</i> Meat products and	
Haddock fillets, frozen_____	25689	poultry.	
Meat products and poultry_____	25723-	Vitamin, mineral, and other prod-	
	25725	ucts of special dietary sig-	
Milk, nonfat, dry_____	25678	nificance _____	25746-25750
Nonfat dry milk_____	25678	Walnuts, unshelled_____	25736
Nutmegs, whole_____	25744	Wheat _____	25666-25670
Nuts_____	25726-25736	Whitefish, frozen_____	25686, 25687
Oils and fats_____	25737-25740	fillets, frozen_____	25688

¹ (25683) Seizure contested.

SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS

	N.J. No.		N.J. No.
Affiliated Food Distributors, Inc.:		Central States Processors, Inc.:	
tomato juice-----	25721	orange juice-----	25711
Amendt, G. E.:		Chitty & Co., Inc.:	
wheat-----	25668	rice-----	25660
B & B Candy Co.:		Coastal Foods Co.:	
shelled peanuts-----	25735	canned tomatoes-----	25716
Beatrice Foods Co.:		College Inn Food Products Corp.:	
orange juice-----	25711	tomato cocktail-----	25718
Beaumont Rice Mills:		College Inn Lockport Co., Inc.:	
brewers rice-----	25659	tomato cocktail-----	25718
Berman & Son:		Continental Grain Co.:	
frozen eggs-----	25679	wheat-----	25666
Bernard Food Industries, Inc.:		Corbin Bonded Warehouse:	
powdered scrambled eggs-----	25685	rice-----	25664
Birds Eye Div., General Foods		Dameron, Horace:	
Corp.:		oysters-----	25698
frozen spinach-----	25714	Dean, W. C., & Co. <i>See</i> Murphy,	
Bivalve Oyster Packing Co.:		B. P.	
oysters-----	25700	Deluxe Products:	
Bluhill-Nevada, Inc.:		table and cooking oil-----	25740
shelled peanuts-----	25734	Dexter Bishop Co., Inc. <i>See</i>	
Booth Fisheries Canadian Co.,		Redmond, Arthur, Co.	
Ltd.:		Elna Brands, Inc.:	
frozen smelts-----	25690	stuffed olives-----	25715
Boyer, Robert, Co., Inc.:		Emil Perman Elevator:	
canned peaches-----	25702	wheat-----	25669
Bruzia, Raffineria:		Figge, F. J.:	
olive oil-----	25738	butter-----	25674
Byrd, H. F., Inc.:		General Foods Corp. <i>See</i> Birds	
canned sliced apples-----	25701	Eye Div.	
Cache Valley Dairy Association:		Graham Seafood Co.:	
swiss cheese-----	25677	canned crabmeat-----	25695
California Almond Growers Ex-		Haxton Foods, Inc.:	
change:		canned tomatoes-----	25717
shelled almonds-----	25728, 25729	tomato juice-----	25719
California Prune & Apricot		Higdon Grocery Co.:	
Growers Association:		flour-----	25657
dried peaches-----	25705	Humphreys Canning Co.:	
Cal-Tex Citrus Juices, Inc.:		canned shrimp-----	25696
orange juice-----	25711	Humphreys Seafood Co.:	
Canadian Fish Producers, Ltd.:		canned shrimp-----	25696
frozen whitefish-----	25686, 25687	Huron Farm Bureau Cooperative	
frozen tullibeas-----	25694	Association:	
Carlson Bakery & Confectionery		wheat-----	25670
Supply Co.:		Independent Food Products:	
poppyseed-----	25742	frozen eggs-----	25681, 25684
Catania-Spagna Corp.:		Indiana Egg Co.:	
table and cooking oil-----	25739	frozen eggs-----	¹ 25683

¹ (25683) Seizure contested.

	N.J. No.		N.J. No.
Karp Bros. Bakery :		Pierce Terminal Warehouse :	
caraway seed-----	25741	flour-----	25655
Kelley Canning Co. :		Potter-McCune Co. :	
frozen strawberries-----	25709	tomato soup-----	25722
Kroger Co. :		Randolph Laboratories, Div. of	
raisins-----	25707	Randolph Refining Corp. :	
Lawson, N. E. :		various vitamin products-----	25749
oysters-----	25698	Randolph Refining Corp. <i>See</i>	
Lawson Oyster Co. :		Randolph Laboratories.	
oysters-----	25698	Redmond, Arthur, Co. :	
Leotis & Co., Inc. :		frozen eggs-----	25680
rice-----	25665	Reeves, B. M., Co., Inc. :	
Louisiana Specialty Co. :		stuffed olives-----	25715
flour-----	25658	Rico, Inc. :	
Love Nest Products Co., Inc. :		strawberry puree-----	25704
ground coffee-----	25652	Rudolph, L., Co., Inc. :	
Lunenburg Sea Products, Ltd. :		frozen eggs-----	25681
frozen haddock fillets-----	25689	Safe Owl Products, Inc. :	
Mandorf, Victor :		black pepper-----	25745
various vitamin products-----	25749	Schuster & Co. :	
McCain, T. O. :		wheat-----	25667
rice-----	25660	Sheridan Canning Co. :	
McDowell Grocery Co. :		tomato juice-----	25721
flour-----	25656	Sisk, A. W., & Son :	
Millhurst Mills :		canned cut green beans-----	25713
green coffee beans-----	25651	Soule, Gibbs & Boyer :	
Modern Egg Products :		canned peaches-----	25702
frozen eggs-----	25682	St. Michaels Oyster Co. :	
Morris, E. R. :		oysters-----	25700
oysters-----	25700	Star Van & Storage Co., Inc. :	
Murphy, B. P. :		nonfat dry milk-----	25678
oysters-----	25699	Stilwell Canning Co. :	
Nathor Coffee Roasting Corp. :		canned cut green beans-----	25712
ground coffee-----	25652	Stonehill Creameries :	
National Co. :		butter-----	25675
olive oil-----	25737	Sunsweet Growers, Inc. :	
Omstead Fisheries :		dried peaches-----	25705
frozen smelts-----	25690	Superior Eggs, Inc. :	
Peloian Packing Co. :		frozen eggs-----	25682
raisins-----	25707	Superior Frozen Foods, Inc. :	
Pevely Dairy Co. :		frozen eggs-----	25681, ¹ 25683, 25684
orange juice-----	25711	Superior Products Co. :	
Pfeiffer's Packing Co., Inc. :		vitamin tablets-----	25750
tomato soup-----	25722	Tollison-Lynn Co. :	
Pierce, S. S., Co. :		rice-----	25662
canned tomatoes-----	25717	Tri-Co. Almonds, Inc. :	
		diced almonds-----	25726

¹ (25683) Seizure contested.

N.J. No.

N.J. No.

Tri-Valley Packing Association:		Whiteco, Inc.:	
canned peaches-----	25703	frozen strawberries-----	25710
Walker, H. R., & Sons:		Wright, J. N., Jr.:	
flour-----	25654	canned cut green beans-----	25713
West Point Creamery. See		Zaloom Bros. Co., Inc.:	
Figge, F. J.		shelled filberts-----	25733

S A M P L E C O P Y

[illegible]

The Federal Register publishes the full text of Presidential Proclamations and Executive Orders, and the rules and regulations of the various Departments of the Federal Government.

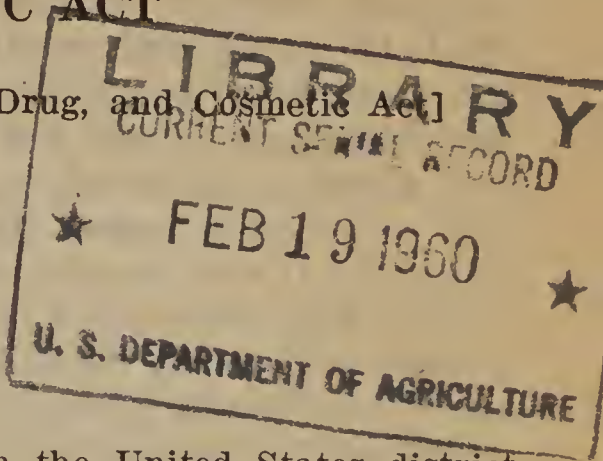
U.S. Department of Health, Education, and Welfare
FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

25751-25850

FOODS



The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were adulterated or misbranded within the meaning of the Act when introduced into and while in interstate commerce, or while held for sale after shipment in interstate commerce. These cases involve (1) seizure proceedings in which decrees of condemnation were entered by default or by consent, and (2) criminal proceedings which were terminated upon pleas of guilty or nolo contendere. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the criminal proceedings are against the *firms* or *individuals* charged to be responsible for violations.

Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D.C., January 27, 1960.

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**SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN VIOLATIONS
REPORTED IN F.N.J. NOS. 25751-25850**

Adulteration, Section 402(a)(2), the article was a raw agricultural commodity, and contained a pesticide chemical which was unsafe within the meaning of Section 408(a); Section 402(a)(3), the article consisted in part of a filthy or decomposed substance, or it was otherwise unfit for food; Section 402(a)(4), the article had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth; Section 402(b)(1), a valuable constituent had been in whole or in part omitted or abstracted from the article; Section 402(b)(2), a substance had been substituted wholly or in part for the article; Section 402(b)(4), a substance had been added to the article or mixed or packed therewith so as to increase its bulk or weight or reduce its quality, or make it appear better or of greater value than it was; Section 408(a), a poisonous or deleterious pesticide chemical had been added to a raw agricultural commodity, and no tolerance or exemption from the requirement of a tolerance had been prescribed by the Secretary of Health, Education, and Welfare.

Misbranding, Section 403(a), the labeling of the article was false and misleading; Section 403(e), the article was in package form, and it failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor, and (2) an accurate statement of the quantity of contents in terms of weight, measure, or numerical count; Section 403(g), the article purported to be and was represented as a food for which a definition and standard of identity had been prescribed by regulation, and (1) it failed to conform to such definition and standard, and (2) its label failed to bear the name of the food specified in the definition and standard; Section 403(i)(2), the article was not subject to the provisions of Section 403(g) and it was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient; Section 403(j), the article purported to be and was represented for special dietary uses, and its label failed to bear such information concerning its vitamin, mineral, and other dietary properties as the Secretary determined to be, and by regulation prescribed as, necessary in order fully to inform purchasers as to its value for such uses; Section 403(k), the article contained artificial flavoring or artificial coloring, and its label failed to state that fact.

CEREALS AND CEREAL PRODUCTS

BAKERY PRODUCTS

25751. Cookies. (F.D.C. No. 43351. S. No. 52-935 P.)

QUANTITY: 11 cases, 12 13-oz. pkgs. each, at Phoenix, Ariz.

SHIPPED: 7-27-59, from Oakland, Calif., by Mother's Cake and Cookie Co.

LABEL IN PART: (Pkg.) "Mother's Chocolate Fudge Sandwich 49¢ * * *
These Delicious Cookies Contain Flour, Sugar, 100% VEGETABLE SHORT-
ENING, Cocoa, Sugar Syrup, Nonfat Milk Solids, Artificial Flavors, Salt,
Leavening, U.S. Certified Color. * * * Baked By Mother's Cake and Cookie
Co., Oakland, Los Angeles, Calif."

LIBELED: 8-18-59, Dist. Ariz.

CHARGE: 402(b) (1)—when shipped a valuable constituent, chocolate, had been in whole or in part omitted from the article; 402(b) (2)—cocoa had been in whole or in part substituted for chocolate; and 403(a)—the label statement “Chocolate Fudge Sandwich” was false and misleading as applied to a product which contained no chocolate.

DISPOSITION: 10-14-59. Default—destruction.

25752. Crackers. (F.D.C. No. 42194. S. No. 29-624 P.)

QUANTITY: 126 1-lb. boxes at Dallas, Tex.

SHIPPED: 7-22-58, from Milton, Mass., by G. H. Bent Co.

LABEL IN PART: (Box) “Cold Water Crackers * * * contains no salt or shortening of any kind * * * no salt added No shortening No sugar.”

LIBELED: 10-8-58, N. Dist. Tex.

CHARGE: 402(a) (3)—contained insects; 402(a) (4)—prepared under insanitary conditions; and 403(j)—the article purported to be and was represented as a food for special dietary use (1) by reason of its use as a means of regulating the intake of protein, fat, carbohydrate, or calories, for the purpose of controlling body weight, or for the purpose of dietary management with respect to disease, and its label failed to bear, as required by regulations, a statement of the percentage by weight of protein, fat, and available carbohydrates in the article, and the number of available calories supplied by a specified quantity of the article and (2) by reason of its use as a means of regulating the intake of sodium, and its label failed to bear, as required by regulations, a statement of the number of milligrams of sodium in an average serving of the article.

DISPOSITION: 11-7-58. Default—delivered to a Federal institution for consumption by animals.

CORNMEAL*

25753. Cornmeal. (F.D.C. No. 43377. S. No. 6-144 P.)

QUANTITY: 117 cases, 12 2-lb. bags each, at Salisbury, Md.

SHIPPED: 8-6-59, from Como, N.C.

LIBELED: 8-28-59, Dist. Md.

CHARGE: 402(a) (3)—contained insects while held for sale.

DISPOSITION: 9-25-59. Default—destruction.

25754. Cornmeal and flour. (F.D.C. No. 42627. S. Nos. 38-632/3 P.)

QUANTITY: 128 25-lb. bags of cornmeal and 105 25-lb. bags of flour at Malvern, Ark., in possession of Clem Wholesale Grocer Co.

SHIPPED: Between 4-14-58 and 9-26-58, from Memphis, Tenn., and Wichita Falls, Tex.

LIBELED: 12-4-58, W. Dist. Ark.

CHARGE: 402(a) (3)—contained (cornmeal) rodent urine and rodent excreta, and (flour) insects; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 1-22-59. Default—delivered to a public institution, for use as animal feed.

*See also No. 25755.

FLOUR*

25755. Flour, lard, and cornmeal. (F.D.C. No. 41736. S. Nos. 57-022/4 M, 57-665 M, 57-680 M, 57-682 M, 77-403 M, 1-066 P.)

INFORMATION FILED: 10-17-58, W. Dist. S.C., against Moore Milling Co., a corporation, Greenville, S.C.; Nathaniel J. Haden, president; and H. L. James, assistant manager.

ALLEGED VIOLATION: Between 7-19-56 and 1-28-58, while quantities of flour, lard, and cornmeal were being held for sale after shipment in interstate commerce, the defendants caused the articles to be placed in a building that was accessible to rodents and insects, and to be exposed to contamination by rodents and insects, which acts resulted in the articles being adulterated.

CHARGE: 402(a) (3)—all the articles contained rodent filth, and the flour and cornmeal contained insects; and 402(a) (4)—held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 4-7-59. The defendants were fined \$500 jointly, and the individual defendants were each placed on probation for 2 years.

25756. Flour. (F.D.C. No. 42465. S. Nos. 1-325 P, 1-328/30 P.)

INFORMATION FILED: 5-12-59, N. Dist. Ga., against H. C. Cole Milling Co., Inc., Atlanta, Ga., and Raleigh V. Thompson, Atlanta branch manager.

ALLEGED VIOLATION: Between 6-9-58 and 9-29-58, while quantities of flour were being held for sale after shipment in interstate commerce, the defendants caused the article to be held in a building that was accessible to insects, and to be exposed to contamination by insects, and to be run through an insect-contaminated flour sifter, which acts resulted in the article being adulterated.

CHARGE: 402(a) (3)—contained insects, insect parts, and insect fragments; and 402(a) (4)—held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 6-3-59. Corporation—\$250 fine: individual—\$50 fine.

25757. Flour. (F.D.C. No. 42452. S. Nos. 39-267/70 P.)

INFORMATION FILED: 5-12-59, N. Dist. Calif., against Jack W. Reilley and Thomas A. Reilley, t/a California Fireproof Storage & Transfer Co., Stockton, Calif.

ALLEGED VIOLATIONS: Between 11-13-57 and 4-15-58, the defendants caused quantities of flour while held for sale after shipment in interstate commerce, to be held in a building accessible to rodents, and to be exposed to contamination by rodents, which acts resulted in the article being adulterated.

CHARGE: 402(a) (3)—contained rodent urine; and 402(a) (4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 6-15-59. Each individual fined \$300.

*See also Nos. 25754, 25783, 25804.

25758. Flour. (F.D.C. No. 42960. S. No. 17-332 P.)

QUANTITY: 56 50-lb. bags at Evansville, Ind., in possession of Hulman & Co.

SHIPPED: 1-3-59, from Arkansas City, Kans.

LIBELED: On or about 4-7-59, S. Dist. Ind.

CHARGE: 402(a) (3)—contained rodent excreta pellets; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 6-9-59. Default—destruction.

25759. Flour. (F.D.C. No. 43156. S. No. 19-614 P.)

QUANTITY: 22 100-lb. bags at Santa Fe, N. Mex.

SHIPPED: 4-28-59, from Monte Vista, Colo., by Monte Vista Flour Mills Co.

LABEL IN PART: "Ben Hur Bakers Flour."

LIBELED: 5-26-59, Dist. N. Mex.

CHARGE: 402(a) (3)—contained rodent urine when shipped.

DISPOSITION: 6-29-59. Default—delivered to a charitable institution for use as animal or poultry feed.

25760. Flour. (F.D.C. No. 42993. S. Nos. 53-933/4 P.)

QUANTITY: 303 25-lb. bags and 9 50-lb. bags at Camden, Ark., in possession of Kimbell-Camden Co.

SHIPPED: 1-26-59, from Denton, Tex.

LIBELED: 4-29-59, W. Dist. Ark.

CHARGE: 402(a) (3)—contained rodent urine; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 6-29-59. Default—destruction.

25761. Flour. (F.D.C. No. 43006. S. Nos. 53-935/6 P.)

QUANTITY: 39 bales, 10 bags each, at Hot Springs, Ark.

SHIPPED: 3-18-59, from Denton, Tex., by Kimbell-Diamond Milling Co.

LABEL IN PART: "5 Lbs. Net Kimbell's * * * Flour Bleached Self-Rising [or "Phosphated"]."

RESULTS OF INVESTIGATION: Examination showed that the article was short weight.

LIBELED: 5-11-59, W. Dist. Ark.

CHARGE: 403(e) (2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents since the label statement "5 Lbs. Net" was inaccurate.

DISPOSITION: 6-29-59. Default—delivered to a public institution, for use as animal feed.

25762. Flour. (F.D.C. No. 43154. So. No. 32/844 P.)

QUANTITY: 104 100-lb. bags at Newark, N.J., in possession of Essex Grain Products Co.

SHIPPED: 3-30-59, from Buffalo, N.Y.

LIBELED: 5-22-59, Dist. N.J.

CHARGE: 402(a) (3)—contained rodent excreta pellets and rodent urine; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 6-29-59. Consent—claimed by Essex Grain Products Co. Segregated; 66 bags denatured for use as animal feed.

25763. Flour. (F.D.C. No. 43144. S. Nos. 33-155/7 P.)

QUANTITY: 203 100-lb. bags at Passaic, N.J., in possession of Capitol Bakers.

SHIPPED: Between 12-14-58 and 2-18-59, from St. Louis, Mo., and Buffalo, N.Y.

LIBELED: 5-12-59, Dist. N.J.

CHARGE: 402(a) (3)—contained rodent urine, rodent excreta, and insects; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 6-22-59. Consent—claimed by Capitol Bakers and converted into animal feed.

25764. Flour. (F.D.C. No. 43117. S. No. 32-846 P.)

QUANTITY: 73 100-lb. bags at Newark, N.J., in possession of Denburg's Modern Bakery.

SHIPPED: 3-2-59, from Hastings, Minn.

LIBELED: 4-16-59, Dist. N.J.

CHARGE: 402(a) (3)—contained rodent urine and rodent excreta; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 5-25-59. Default—destruction.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS**25765. Rice and poppyseed.** (F.D.C. No. 42274. S. Nos. 15-536/41 P.)

QUANTITY: 22 100-lb. bags, 16 100-lb. bags, 44 100-lb. bags, 149 25-lb. bags, and 35 25-lb. bags of rice; and 7 109-lb. bags of poppyseed, at Cleveland, Ohio, in possession of Seaway Wholesale Grocery Co.

SHIPPED: Between 10-30-57 and 10-8-58, from Arkansas, Tennessee, and New York.

LIBELED: 11-7-58, N. Dist. Ohio.

CHARGE: 402(a) (3)—contained insects; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 5-26-59 and 6-30-59. Seaway Wholesale Grocery Co., Bedford Heights, Ohio, claimant for the 44 bags, 149 bags, and 35 bags of rice, having consented to the entry of a decree, judgment of condemnation was entered and such rice was ordered released under bond for reconditioning. As a result of the reconditioning operations, 125 lbs. of rice was found unfit and converted to animal feed.

On 5-26-59, a default decree of condemnation and destruction was entered against the 22 bags and 16 bags of rice, and 7 bags of poppyseed.

25766. Rice, dried pinto beans, dried black-eyed peas, roll mix, and bread mix.
(F.D.C. No. 42767. S. Nos. 5-204/7 P, 5-209/12 P.)

QUANTITY: 48 25-lb. bags, 154 bales, 20 3-lb. bags each, and 13 10-lb. bags of rice; 33 100-lb. bags of dried pinto beans; 410 cases, 24 1-lb. bags of dried black-eyed peas; 9 cases, 12 14¼-oz. pkgs. each, of hot roll mix; and 2 cases, 12 12½-oz. pkgs. each, of bread mix, at Whiteville, N.C., in possession of G. V. Singletary & Sons.

SHIPPED: Between 10-2-58 and 11-3-58, from Stuttgart, Ark., Mobile, Ala., Denver, Colo., and Newark, N.J.

LIBELED: 1-7-59, E. Dist. N.C.

CHARGE: 402(a)(3)—rodent excreta, rodent urine, rodent hairs, and (mixes) insects; and 402(a)(4)—(all lots except mixes) held under insanitary conditions.

DISPOSITION: 5-8-59. Consent—claimed by G. V. Singletary & Sons. Black-eyed peas were examined, found free of rodent filth and released for human consumption; pinto beans were converted into animal feed; and mixes were destroyed.

25767. Rice. (F.D.C. No. 43125. S. No. 33-154 P.)

QUANTITY: 55 100-lb. bags at Union, N.J., in possession of M. Millinger.

SHIPPED: 5-28-58, from Houston, Tex.

LIBELED: 4-28-59, Dist. N.J.

CHARGE: 402(a)(3)—contained insects and insect excreta; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 5-27-59. Consent—claimed by Max Millinger, Union, N.J. Segregated; 33 pounds were destroyed, and 5 100-lb. bags were denatured for use as chicken feed.

25768. Rice, unshelled almonds, and Great Northern dried beans. F.D.C. No. 42765. S. Nos. 56-306/11 P.)

QUANTITY: 82 25-lb. bags, and 27 100-lb. bags of rice; 6 100-lb. bags of unshelled almonds; and 9 100-lb. bags of Great Northern dried beans, at Charleston, S.C., in possession of Pearce-Young-Angel Co.

SHIPPED: Between 9-20-57 and 10-31-58, from Mobile, Ala., New York, N.Y., and Denver, Colo.

LIBELED: 1-8-59, E. Dist. S.C.

CHARGE: 402(a)(3)—contained (all lots except almonds) insects, and (almonds) moldy nuts; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 2-13-59. (Rice) Consent—claimed by Pearce-Young-Angel Co. Segregated; 2,540 lbs. denatured for use as animal feed.

3-20-59. (Almonds and beans) Default—delivered to a public institution for use as animal feed.

25769. Wheat. (F.D.C. No. 42732. S. No. 20-833 P.)

QUANTITY: 108,000 lbs. at Kansas City, Kans.

SHIPPED: 2-26-59, from Wilsonville, Nebr., by Continental Grain Co.

LIBELED: 3-13-59, Dist. Kans.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 3-16-59. Consent—claimed by Continental Grain Co. Segregated; 2,300 lbs. disposed of for use other than human consumption.

25770. Wheat. (F.D.C. No. 42671. S. No. 10-394 P.)

QUANTITY: 108,000 lbs. at Buffalo, N.Y.

SHIPPED: 1-13-59, from Ida, Mich., by Ida Farmer's Cooperative Co.

LIBELED: 1-26-59, W. Dist. N.Y.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 2-2-59. Consent—claimed by Ida Farmer's Cooperative Co. and reprocessed for use as animal feed.

25771. Wheat. (F.D.C. Nos. 42718, 42719. S. Nos. 10-861 P, 10-863 P.)

QUANTITY: 221,480 lbs. at Buffalo, N.Y.

SHIPPED: 2-21-59, 103,800 lbs. by New Holland Grain Co., New Holland, Ohio;
2-20-59, 117,680 lbs. by Eshelman Grains, Inc., Columbus, Ohio.

LIBELED: 3-2-59, W. Dist. N.Y.

CHARGE: 402(a) (3)—contained rodent excreta pellets when shipped.

DISPOSITION: On 3-4-59, Cargill, Inc., Minneapolis, Minn., claimant, having consented to the entry of a decree against 103,800 lbs. of the article, judgment of condemnation was entered against such amount, and that portion of the article was released under bond for use for non-human consumption.

On 3-6-59, Eshelman Grain, Inc., claimant for 117,680 lbs. of the article, having consented to the entry of a decree, judgment of condemnation was entered against that portion of the article and it was released under bond for conversion into animal feed.

25772. Wheat. (F.D.C. No. 42696. S. No. 13-984 P.)

QUANTITY: 600 bushels at Rochester, Ind.

SHIPPED: 2-5-59, by Fulton County Farm Bureau Cooperative, from Kewanna, Ind., to Chicago, Ill., and from there returned to Rochester, Ind.

LIBELED: 2-13-59, N. Dist. Ind.

CHARGE: 402(a) (3)—contained rodent excreta pellets when shipped.

DISPOSITION: 3-24-59. Consent—claimed by Fulton County Farm Bureau Cooperative Association, Inc., and converted into animal feed.

25773. Wheat. (F.D.C. No. 42669. S. Nos. 26-221 P, 27-047 P.)

QUANTITY: 137,200 lbs. at Minneapolis, Minn.

SHIPPED: 12-4-58 and 12-5-58, from Alsen, N. Dak., by Alsen Farmer's Elevator Co.

LIBELED: 1-28-59, Dist. Minn.

CHARGE: 402(a) (2)—the article was a raw agricultural commodity and contained, when shipped, a pesticide chemical, namely, a mercurial compound, which is unsafe within the meaning of 408 since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat has been prescribed by regulations.

DISPOSITION: 2-4-59. Consent—claimed by Alsen Farmer's Elevator Co. Segregated; 35,320 lbs. destroyed.

25774. Wheat. (F.D.C. No. 42659. S. No. 43-764 P.)

QUANTITY: 103,200 lbs. at Denver, Colo.

SHIPPED: 1-8-59, from Kimball, Nebr., by Olsen Grain Co.

LIBELED: 1-16-59, Dist. Colo.

CHARGE: 402(a) (3)—contained insects and insect-damaged kernels when shipped.

DISPOSITION: 1-26-59. Consent—claimed by J. Lynch and Co., Inc., Salina, Kans. Segregated; 6,300 lbs. converted into animal feed.

25775. Wheat. (F.D.C. No. 42656. S. No. 10-446 P.)

QUANTITY: 2,000 bushels at Buffalo, N.Y.

SHIPPED: 12-31-58, from Maybee, Mich., by Bieniecki Bros.

LIBELED: 1-12-59, W. Dist. N.Y.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 1-20-59. Consent—claimed by L. J. Schuster Co., Toledo, Ohio, and denatured for use as animal feed.

25776. Wheat. (F.D.C. No. 42739. S. No. 18-897 P.)

QUANTITY: 124,800 lbs. at Denver, Colo.

SHIPPED: 3-3-59, from Kimball, Nebr., by Kimball County Grain Cooperative.

LIBELED: 3-10-59, Dist. Colo.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 3-16-59. Consent—claimed by Kimball County Grain Cooperative. Segregated; 17,100 lbs. denatured.

25777. Wheat. (F.D.C. No. 42733. S. No. 20-056P.)

QUANTITY: 118,000 lbs. at Kansas City, Kans.

SHIPPED: 2-20-59, from Cambridge, Nebr., by Urling Grain Co.

LIBELED: 3-13-59, Dist. Kans.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 4-7-59. Consent—claimed by B. C. Christopher & Co., Kansas City, Mo. Segregated; 8,860 lbs. denatured.

25778. Wheat. (F.D.C. No. 42715. S. No. 9-675 P.)

QUANTITY: 120,000 lbs. at Buffalo, N.Y.

SHIPPED: 2-17-59, from Chicago, Ill., by Continental Grain Co.

LIBELED: 2-25-59, W. Dist. N.Y.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 3-2-59. Consent—claimed by Continental Grain Co. and converted into chicken feed.

25779. Wheat. (F.D.C. No. 42737. S. No. 42-240 P.)

QUANTITY: 40,960 lbs. at Seattle, Wash.

SHIPPED: 2-26-59, from Ronan, Mont., by Atwood Larson, ex Teslow, Inc.

LIBELED: 3-9-59, W. Dist. Wash.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 3-13-59. Consent—claimed by Atwood Larson Co., Spokane, Wash., and Teslow, Inc., Manhattan, Mont., and converted into animal feed.

25780. Wheat. (F.D.C. No. 42706. S. No. 27-188 P.)

QUANTITY: 118,140 lbs. at Minneapolis, Minn.

SHIPPED: 2-3-59, from St. Lawrence, S. Dak., by St. Lawrence Farmer's Elevator Association.

LIBELED: 2-19-59, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 2-27-59. Consent—claimed by Great Plains Supply Co., St. Paul, Minn. Segregated; 6,370 lbs. denatured for use as animal feed.

25781. Wheat. (F.D.C. No. 42686. S. No. 20-034 P.)

QUANTITY: 127,200 lbs. at Kansas City, Kans.

SHIPPED: 1-24-59, from Kimball, Nebr., by Olsen Grain Co.

LIBELED: 2-12-59, Dist. Kans.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 2-17-59. Consent—claimed by J. Lynch & Co., Inc., Salina, Kans. Segregated; 3,820 lbs. denatured.

25782. Wheat. (F.D.C. No. 42688. S. No. 42-669 P.)

QUANTITY: 123,600 lbs. at Cheney, Wash.

SHIPPED: 1-23-59, from Molt, Mont., by Molt Farmers Elevator Co.

LIBELED: 2-6-59, E. Dist. Wash.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 2-16-59. Consent—claimed by Farmers Union Grain Terminal Association, Minneapolis, Minn., and converted into animal feed.

25783. Grits and flour. (F.D.C. No. 42693. S. Nos. 46-087/8 P.)

QUANTITY: 60 ctns., 24 1½-lb. pkgs. each, of grits; and 38 100-lb. bags of flour, at New Orleans, La., in possession of Orleans Storage Co., Inc.

SHIPPED: 5-5-58, from Ft. Worth, Tex., and 9-22-58, from Dallas, Tex.

LIBELED: 2-12-59, E. Dist. La.

CHARGE: 402(a)(3)—the grits contained insects and the flour contained rodent urine; and 402(a)(4)—both articles held under insanitary conditions.

DISPOSITION: 3-18-59. Default—destruction.

25784. Roasted cereal and mustard bran (2 seizure actions). (F.D.C. No. 42663. S. Nos. 15-117/8 P.)

QUANTITY: 3 100-lb. bags of roasted cereal and 28 100-lb. bags of mustard bran at Nashville, Tenn.

SHIPPED: (Roasted cereal) 1-2-58, from New Orleans, La., and (mustard bran) 9-23-57 and 9-25-57, from Houston, Tex.

LIBELED: 1-20-59, M. Dist. Tenn.

CHARGE: 402(a)(3)—while held for sale, both articles contained insect larvae, and the mustard bran also contained rodent excreta.

DISPOSITION: 6-24-59. Default—destruction.

25785. Blueberry pancake mix. (F.D.C. No. 42916. S. No. 48-083 P.)

QUANTITY: 860 cases, 12 13½-oz. pkgs. each, at Boston, Mass.

SHIPPED: Between 2-8-59 and 3-9-59, from Black Rock, N.Y., by Pillsbury Co.

LABEL IN PART: (Pkg.) "Pillsbury Blueberry Pancake Mix."

RESULTS OF INVESTIGATION: Examination showed that the article was a baking mix, without blueberries, but containing approximately 10 percent of hard, irregularly-shaped, purple pellets consisting chiefly of sugars, nonfat dry milk, starch, coconut pulp, artificial coal-tar color, artificial flavor, and a very small amount of blueberry pulp.

LIBELED: 3-30-59, Dist. Mass.

CHARGE: 402(b)(2)—when shipped, purple pellets having the composition as described above had been substituted in whole or in part for blueberries; 402(b)(4)—purple pellets having the composition as described above had been added to the article, or mixed or packed therewith, so as to make the article appear better or of greater value than it was; and 403(a)—the label statements “Blueberry Pancake Mix,” “Blueberry Waffles,” “Blueberry Muffins,” and “Stabilized Blueberries,” and the vignette displaying numerous blueberries in pancakes and surrounding a plate of pancakes, represented and suggested that the product contained whole blueberries, which statements and vignette were false and misleading as applied to a product in which purple pellets having the composition as described above had been substituted for whole blueberries.

DISPOSITION: 6-12-59. Consent—claimed by Pillsbury Co. and relabeled.

DAIRY PRODUCTS

BUTTER

25786. Butter. (F.D.C. No. 43101. S. Nos. 12-099 P, 41-151 P, 42-523 P.)

INFORMATION FILED: 6-17-59, Dist. Nebr., against Farmers Union Co-operative Creamery Co., Aurora, Nebr., and Stacy Barker, Aurora plant manager.

SHIPPED: 8-14-58 and 9-22-58, from Nebraska, to Illinois and Washington.

LABEL IN PART: (Wrapper) “One Pound Net Superior Brand Butter Farmers Union Co-operative Creameries.”

CHARGE: 402(a)(3)—when shipped, contained a decomposed substance by reason of the use of decomposed cream in the manufacture of the article.

PLEA: Guilty.

DISPOSITION: 7-16-59. Corporation—\$50 fine, plus costs; individual—\$50 fine.

25787. Butter. (F.D.C. No. 43499. S. No. 68-777 P.)

QUANTITY: 13 64-lb. boxes at Chicago, Ill.

SHIPPED: 8-4-59, from Orchard, Nebr., by Orchard Co-operative Creamery.

LABEL IN PART: “BUTTER L. D. Schreiber & Co., Inc. Distributors Chicago Illinois.”

LIBELED: 8-24-59, N. Dist. Ill.

CHARGE: 402(b)(2)—when shipped, a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: 9-2-59. Consent—claimed by Marketing Association of America, Chicago, Ill., and reworked.

25788. Butter. (F.D.C. No. 43498. S. Nos. 22-474 P, 71-201 P.)

QUANTITY: 37 64-lb. boxes at Louisville, Ky.

SHIPPED: 8-7-59, from Chicago, Ill., by Berkshire Foods, Inc.

LABEL IN PART: “Creamery Butter Fox DeLuxe Foods, Inc. Distributors * * * Chicago, Ill.”

LIBELED: 8-19-59, W. Dist. Ky.; libel amended 8-24-59.

CHARGE: 402(a)(3)—contained a decomposed substance when shipped.

DISPOSITION: 9-3-59. Consent—claimed by Berkshire Foods, Inc., and converted into butter oil.

CHEESE

25789. Cheese. (F.D.C. No. 41633. S. No. 18-376 P.)

QUANTITY: 3 cases, 6 20-lb. loaves each, at Denver, Colo.

SHIPPED: 4-2-56, from Cumberland, Wis.

LIBELED: 3-21-58, Dist. Colo.

CHARGE: 402(a)(3)—contained insects, maggots, flies, and fly parts while held for sale.

DISPOSITION: 6-22-59. Consent—claimed by Aiello Enterprises, Inc., Denver, Colo. Segregated; 76 lbs. destroyed.

25790. Cheese. (F.D.C. No. 43310. S. No. 27-252 P.)

QUANTITY: 13 cases, 6 11-lb. cheeses each, at Chicago, Ill.

SHIPPED: 6-25-59, from London, Wis., by London Cheese Co.

LABEL IN PART: (Cheese and case) "Aquila 6 Salame Cheese Manufactured in U.S.A."

RESULTS OF INVESTIGATION: Inspection of London Cheese Co. showed, and the manufacturer admitted, that the product was provolone cheese, except that the milk used was not pasteurized and the finished article was not aged for 60 days, since production was shipped weekly. Examination of the article showed high phosphatase values, confirming that the milk was not pasteurized.

LIBELED: 7-23-59, N. Dist. Ill.

CHARGE: 403(g)(1)—when shipped, the article failed to conform to the definition and standard of identity for provolone cheese, since it was not made from pasteurized milk, it was not held at a temperature of not less than 35° Fahrenheit for not less than sixty days, and its label failed to bear the name of the food specified in the definition and standard.

DISPOSITION: 8-18-59. Consent—claimed by Western Food Corporation, Chicago, Ill., and relabeled.

FEEDS AND GRAINS

25791. Pulverized oats. (F.D.C. No. 42864. S. No. 47 P.)

QUANTITY: 600 bags at Somerset, Ky.

SHIPPED: 12-1-58, from Cochrane, Wis., by La Crosse Milling Co.

LABEL IN PART: "100 Lbs. Net Weight Premium Pulverized White Oats Minimum Crude Protein 11:00% Minimum Crude Fat 3:00% Maximum Crude Fibre 13:00% (Made from Sample Grade or better white oats and other grain and material characteristic of country run oats). La Crosse Milling Co., Cochrane, Wis."

LIBELED: 2-27-59, E. Dist. Ky.

CHARGE: 403(a)—when shipped, the name "Premium Pulverized White Oats" and statement "Maximum Crude Fibre 13:00%" appearing on the label, were false and misleading as applied to a product that was not "premium" oats, and the average fiber content was more than 13:00 percent.

DISPOSITION: 3-30-59. Consent—claimed by La Crosse Milling Co. and relabeled.

25792. Alfalfa hay. (F.D.C. No. 42606. S. No. 52-861 P.)

QUANTITY: 10 tons at Norwalk, Calif.

SHIPPED: 11-25-58, from Yuma, Ariz., by H. C. Gunning.

LIBELED: 1-13-59, S. Dist. Calif.

CHARGE: 402(a)(2)—the article was a raw agricultural commodity and contained, when shipped, a pesticide chemical, namely, DDT, which is unsafe within the meaning of 408, since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on hay has been prescribed by regulations.

DISPOSITION: 2-26-59. Default—destruction.

25793. Mixed grain screenings. (F.D.C. No. 43010. S. No. 27-084 P.)

QUANTITY: 81,000 lbs. at Minneapolis, Minn.

SHIPPED: 4-30-59, from Havana, N. Dak., by Farmers Co-operative Grain Co.

LIBELED: 5-13-59, Dist. Minn.

CHARGE: 402(a)(2)—when shipped, the article was a raw agricultural commodity and it contained a pesticide chemical, namely, a mercurial compound, which is unsafe within the meaning of 408, since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on grain screenings has been prescribed by regulations.

DISPOSITION: 5-18-59. Consent—claimed by Farmers Co-operative Grain Co. and released under bond for reprocessing. Thereafter, the article was destroyed.

FRUITS AND VEGETABLES

DRIED FRUIT

25794. Raisins. (F.D.C. No. 43045. S. No. 55-849 P.)

QUANTITY: 69 cases, 24 15-oz. pkgs. each, at Kansas City, Kans.

SHIPPED: 4-16-59, from Dinuba, Calif., by Peloian Packing Co.

LABEL IN PART: (Pkg.) "Town House Brand Seedless Raisins * * * Safeway Stores Incorporated Distributors * * * Oakland, Calif."

LIBELED: 6-4-59, Dist. Kans.

CHARGE: 402(a)(3)—contained moldy raisins and sand when shipped.

DISPOSITION: 7-31-59. Default—delivered to a public institution for use as animal feed.

FRESH FRUIT

25795. Fresh blueberries. (F.D.C. No. 43495. S. No. 63-936 P.)

QUANTITY: 6 crates, 32 1-qt. boxes each, and 26 crates, 24 1-qt boxes each, at Boston, Mass.

SHIPPED: 8-5-59, from Union, Wolfeboro, New Durham, and Center Strafford, N.H., by John Tufts, George Tufts, Harry Eastman, Bertha Bullis, C. Fernandez, and Alberton H. Berry.

RESULTS OF INVESTIGATION: Examination showed that the article contained maggots.

LIBELED: 8-7-59, Dist. Mass.

CHARGE: 402(a)(3)—contained a filthy substance when shipped.

DISPOSITION: 9-14-59. Default—destruction.

25796. Fresh blueberries. (F.D.C. No. 43493. S. No. 63-934 P.)

QUANTITY: 5 crates, 16 1-qt. boxes each, at Boston, Mass.

SHIPPED: 8-5-59, from New Durham, N.H., by Roy W. Berry.

RESULTS OF INVESTIGATION: Examination showed that the article contained maggots.

LIBELED: 8-5-59, Dist. Mass.

CHARGE: 402(a)(3)—contained a filthy substance when shipped.

DISPOSITION: 9-14-59. Default—destruction.

25797. Fresh blueberries. (F.D.C. No. 43492. S. No. 63-933 P.)

QUANTITY: 11 crates, 16 1-qt. boxes each, at Boston, Mass.

SHIPPED: 8-3-59, from Union, N.H., by Mildred Secord.

RESULTS OF INVESTIGATION: Examination showed that the article contained maggots.

LIBELED: 8-5-59, Dist. Mass.

CHARGE: 402(a)(3)—contained a filthy substance when shipped.

DISPOSITION: 9-14-59. Default—destruction.

25798. Fresh blueberries. (F.D.C. No. 43490. S. No. 64-143 P.)

QUANTITY: 25 crates, 16 1-qt. boxes each, at Boston, Mass.

SHIPPED: 8-3-59, from Union, N.H., by Mildred Secord.

RESULTS OF INVESTIGATION: Examination showed that the article contained maggots.

LIBELED: 8-4-59, Dist. Mass.

CHARGE: 402(a)(3)—contained a filthy substance when shipped.

DISPOSITION: 9-21-59. Default—destruction.

25799. Fresh blueberries. (F.D.C. No. 43488. S. No. 63-930 P.)

QUANTITY: 14 crates, 24 1-qt. boxes each, at Boston, Mass.

SHIPPED: 8-3-59, from Alton, N.H., by H. Shields.

LIBELED: 8-4-59, Dist. Mass.

CHARGE: 402(a)(3)—contained a filthy substance when shipped.

DISPOSITION: 9-30-59. Default—destruction.

25800. Fresh blueberries. (F.D.C. No. 43491. S. No. 64-087 P.)

QUANTITY: 35 crates, 24 1-qt. boxes each, at Boston, Mass.

SHIPPED: 8-3-59, from Farmington, N.H., by Lawrence Cameron.

RESULTS OF INVESTIGATION: Examination showed that the article contained maggots.

LIBELED: 8-4-59, Dist. Mass.

CHARGE: 402(a)(3)—contained a filthy substance when shipped.

DISPOSITION: 9-30-59. Default—destruction.

MISCELLANEOUS FRUIT PRODUCTS

25801. Apple juice. (F.D.C. No. 42968. S. No. 42-561 P.)

QUANTITY: 124 cases, 12 cans each, at Boise, Idaho.

SHIPPED: 2-2-59, from Selah, Wash., by Charbonneau Packing Corp.

LABEL IN PART: (Can) "Charbonneau Tree Top Brand * * * Apple Juice * * *
Charbonneau Packing Corporation, Yakima & Wenatchee, Washington."

LIBELED: 4-7-59, Dist. Idaho.

CHARGE: 402(a) (3)—when shipped, the article consisted in whole or in part of a filthy and decomposed substance by reason of the use in its manufacture of wormy and rotten apples.

DISPOSITION: 9-1-59. Default—destruction.

25802. Orange juice. (F.D.C. No. 43299. S. No. 57-181 P.)

QUANTITY: 83 cases, 12 1-qt. ctns. each, at Atlanta, Ga.

SHIPPED: 9-23-58, from Clermont, Fla.

LIBELED: 7-15-59, N. Dist. Ga.

CHARGE: 402(b) (2)—while held for sale, water had been substituted in part for orange juice; 402(b) (4)—water had been added to the article or mixed or packed with it so as to increase its bulk and reduce its quality; and 403(a)—the vignette depicting a freshly cut orange, and the label statement "A Superior Blend of Florida Orange Juice and Reconstituted Orange Juice with Sucrose added" were false and misleading since they represented and suggested that the article was orange juice sweetened, whereas, it was diluted orange juice sweetened.

DISPOSITION: 9-24-59. Default—delivered to a public institution for its use and not for sale.

PRESERVES

25803. Chokecherry preserves. (F.D.C. No. 43387. S. No. 51-976 P.)

QUANTITY: 82 cases, 12 2-lb. 7-oz. jars each, at Minneapolis, Minn.

SHIPPED: 3-18-59, from Fargo, N. Dak., by Paul-Mark, Inc.

LABEL IN PART: (Jar) "Paul-Mark Jr. * * * Wild Choke Cherry Preserves."

LIBELED: 7-9-59, Dist. Minn.

CHARGE: 403(k)—when shipped, the article contained amaranth, and artificial color, and failed to bear a label stating that fact.

DISPOSITION: 9-11-59. Default—delivered to charitable institutions for food purposes.

VEGETABLES AND VEGETABLE PRODUCTS *

25804. Dried beans and flour. (F.D.C. No. 41729. S. Nos. 19-591 M, 83-096/8 M.)

INFORMATION FILED: 6-26-58, E. Dist. Ky., against Hagen, Ratcliff & Co., Inc., t/a Ashland Grocery Co., Ashland, Ky.

ALLEGED VIOLATION: Between 2-6-56 and 11-20-57, while quantities of dried beans and flour were being held for sale after shipment in interstate commerce, the defendant caused the articles to be held in a building that was accessible to rodents, and to be exposed to contamination by rodents, which acts resulted in the articles being adulterated.

CHARGE: 402(a) (3)—the dried beans contained rodent excreta and both articles contained rodent urine and rodent hairs; and 402(a) (4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 6-15-59. \$600 fine, plus costs.

*See also Nos. 25766, 25768, 25813, 25820.

25805. Dried Great Northern beans, dried split peas, and dried lima beans. (F.D.C. No. 43176. S. Nos., 50-149 P, 50-605 P, 50-607 P.)

QUANTITY: 5 100-lb. bags of dried split peas, 56 100-lb. bags of dried Great Northern beans, and 7 100-lb. bags of dried lima beans, at Paducah, Ky., in possession of M. Livingston & Co.

SHIPPED: 6-17-57 and 2-23-59, from Morrill, Nebr.

LIBELED: 6-13-59, W. Dist. Ky.

CHARGE: 402(a)(3)—all the articles contained rodent urine and the Great Northern beans also contained rodent excreta and rodent hairs; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 9-11-59. Consent—claimed by M. Livingston & Co. and converted into animal feed.

25806. Dried mung beans. (F.D.C. No. 42684. S. No. 48-313 P.)

QUANTITY: 48 100-lb. bags at San Francisco, Calif.

SHIPPED: 5-9-58, from Lima, Peru.

LIBELED: 2-9-59, N. Dist. Calif.

CHARGE: 402(a)(3)—contained insects and insect fragments while held for sale.

DISPOSITION: 4-2-59. Default—destruction.

25807. Dried black-eyed peas. (F.D.C. No. 42800. S. Nos. 38-646/53 P.)

QUANTITY: 34 bales containing 6 4-lb. bags, 89 bales containing 12 2-lb. bags, 91 bales containing 24 1-lb. bags, 10 100-lb. bags, and 21 25-lb. bags, at El Dorado, Ark.

SHIPPED: Between 10-20-58 and 12-10-58, from Dallas, Tex.

LIBELED: 1-23-59, W. Dist. Ark.

CHARGE: 402(a)(3)—while held for sale, contained insects, insect excreta, and insect-damaged peas.

DISPOSITION: 6-1-59. Default—destruction.

25808. Dried black-eyed peas, dried yellow split peas, dried lentils, and dried whole green peas. (F.D.C. No. 42862. S. Nos. 44-428/31 P.)

QUANTITY: 105 100-lb. bags, and 312 bales, 12 2-lb. bags each, of dried black-eyed peas; 50 100-lb. bags of dried yellow split peas; 35 100-lb. bags of dried lentils; and 7 100-lb. bags of dried whole green peas, at Atlanta, Ga., in possession of Biltmore Food Products Co., Inc.

SHIPPED: 1-14-57 and 11-22-57, from San Francisco, Calif., and Palouse, Wash.

LIBELED: On or about 3-5-59, N. Dist. Ga.

CHARGE: 402(a)(3)—contained (black-eyed peas) insect-damaged peas; (yellow split peas) insects and rodent excreta; (lentils) insects, rodent excreta and rodent urine; and (green peas) rodent urine; and 402(a)(4)—all lots held under insanitary conditions.

DISPOSITION: 4-10-59. Default—destruction.

25809. Dried black-eyed peas. (F.D.C. No. 42353. S. No. 36-720 P.)

QUANTITY: 377 100-lb. bags at Memphis, Tenn., in possession of Shelby Warehouse, Inc.

SHIPPED: 8-15-58, from Mobile, Ala.

LIBELED: 11-7-58, W. Dist. Tenn.

CHARGE: 402(a) (3)—contained insects; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 9-4-59. Default—delivered to a public institution for use as animal feed.

25810. Frozen mixed vegetables. (F.D.C. No. 43023. S. No. 52-614 P.)

QUANTITY: 218 cases, 24 pkgs. each, at Minneapolis, Minn.

SHIPPED: 4-21-59, from Arlington, Wash., by Twin City Foods, Inc.

LABEL IN PART: (Pkg.) "Mity Fresh Quick Frozen Mixed Vegetables * * * Net Weight 10 Ounces * * * Distributed by Watsonville Canning & Frozen Food Co., Watsonville, California."

RESULTS OF INVESTIGATION: Examination showed that the article was short weight.

LIBELED: 5-21-59, Dist. Minn.

CHARGE: 403(e) (2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents since the label statement "10 Ounces" was inaccurate.

DISPOSITION: 7-10-59. Default—delivered to charitable institutions.

25811. Dried mushrooms. (F.D.C. No. 41965. S. Nos. 41-464/7 P.)

QUANTITY: 23 25-lb. cases and 22 5-lb. cases at Seattle, Wash.

SHIPPED: The 23 case lot described above was shipped from San Francisco, Calif., by A. Arenson Co. on 2-18-57 and 3-5-58; a number of 55-lb. cases were shipped on 10-5-56, from New York, N.Y., by Schoenfeld & Sons, and on 3-19-58, from Chicago, Ill., by Sokol & Co. The 22 case lot described above was repacked by the consignee from the 55-lb. cases.

LABEL IN PART: (Case) "Mushrooms dried & sliced * * * Packed by Cia. Commercial Schovelin, Ltd. Concepcion, Chile, South America," and "Roumanian [or "Italian" or "European"] dried mushrooms."

LIBELED: 8-4-58, W. Dist. Wash.

CHARGE: 402(a) (3)—contained insects, insect-damaged mushrooms, and moldy mushrooms when shipped.

DISPOSITION: 9-3-59. Default—destruction.

25812. Roasted peppers. (F.D.C. No. 42895. S. No. 57-714 P.)

QUANTITY: 77 cases, 24 jars each, at New York, N.Y.

SHIPPED: 11-21-58, from Watertown, Mass., by Naples Food Products.

LABEL IN PART: (Jar) "NAPLES Sweet ROASTED PEPPERS Contents: Peppers, Salt Added. Net Wt. 7¾ ozs."

LIBELED: 4-6-59, S. Dist. N.Y.

CHARGE: 403(e)—when shipped, the article failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor, and (2) an accurate statement of the quantity of contents.

DISPOSITION: 5-8-59. Consent—claimed by G. Capaldi & Son, Inc., Watertown, Mass., and relabeled.

25813. Pickled beans and pickled corn. (F.D.C. No. 43268. S. Nos. 5-061/2 P, 5-067/8 P.)

QUANTITY: 7 cases, 7 pint jars each, 108 pint jars, and 66 quart jars of beans; and 5 cases, 12 pint jars each, 78 pint jars, and 72 quart jars of corn, at Ashland, Ky.

SHIPPED: 4-1-59 and 5-18-59, from Princeton, W. Va., by Mercer Packing Co.

LABEL IN PART: (Jar) "Howard's Brand Picked Beans [or "Corn"] * * *
Packed by Mercer Packing Company Princeton, West Virginia."

LIBELED: 6-18-59, E. Dist. Ky.

CHARGE: 402(a)(3)—contained a decomposed substance when shipped.

DISPOSITION: 7-23-59. Default—destruction.

TOMATO PRODUCTS

25814. Tomato catsup and tomato puree. (F.D.C. No. 42716. S. Nos. 9-779/80 P.)

QUANTITY: 215 cans of catsup and 298 cans of puree at Pittsburgh, Pa.

SHIPPED: 12-12-58 and 1-26-59, from Wilson, N.Y., by Wilson Canning Co.

LABEL IN PART: "Laughery * * * Catsup Net Weight 7 Lbs. Packed for M. J. Laughery Co. Pittsburgh" and "Laughery * * * Tomato Puree * * * Net Weight 6 Lbs. 9 Oz. Packed For M. J. Laughery Co."

LIBELED: 2-27-59, W. Dist. Pa.

CHARGE: 402(a)(3)—contained decomposed tomato material when shipped.

DISPOSITION: 3-30-59. Default—destruction.

25815. Tomato puree. (F.D.C. No. 42561. S. No. 36-064 P.)

QUANTITY: 49 cases, 6 cans each, at Philadelphia, Pa.

SHIPPED: 10-16-58, from Greenwich, N.J., by R. S. Watson & Son.

LABEL IN PART: (Can) "Contents 6 Lbs. 8 Ozs. * * * Greenwich Brand Tomato Puree Packed by R. S. Watson & Son Greenwich, N.J."

LIBELED: 12-12-58, E. Dist. Pa.

• CHARGE: 402(a)(3)—contained fly fragments, fly eggs, and maggots when shipped.

DISPOSITION: 1-22-59. Default—destruction.

25816. Tomato juice. (F.D.C. No. 43001. S. No. 10-298 P.)

QUANTITY: 98 cases, 12 cans each, at Pittsburgh, Pa.

SHIPPED: 3-12-59, from Sheridan, N.Y., by Sheridan Canning Co.

LABEL IN PART: (Can) "Pride of Sheridan Brand Tomato Juice * * * Contents 1 quart 14 fl. ozs. Grown and packed by Sheridan Canning Co., Sheridan, N.Y."

LIBELED: 5-11-59, W. Dist. Pa.

CHARGE: 402(a)(3)—contained decomposed tomato material when shipped.

DISPOSITION: 6-25-59. Default—destruction.

25817. Tomato juice. (F.D.C. No. 42970. S. No. 10-793 P.)

QUANTITY: 97 cases, 12 cans each, at Elizabeth, Pa., and 100 cases, 12 cans each, at Clairton, Pa.

SHIPPED: 3-12-59, from Sheridan, N.Y., by Sheridan Canning Co.

LABEL IN PART: (Can) "Pride of Sheridan Brand New York State Tomato Juice * * * Contents 14 Fl Ozs. Grown and Packed by Sheridan Canning Co., Sheridan, N.Y."

LIBELED: 4-7-59, W. Dist. Pa.

CHARGE: 402(a)(3)—contained decomposed tomato material when shipped.

DISPOSITION: 5-8-59. Default—destruction.

NUTS*

25818. Shelled peanuts. (F.D.C. No. 42626. S. No. 22-308 P.)

QUANTITY: 23 bags, 120 lbs. each, at Lincoln, Nebr.

SHIPPED: 11-13-58, from Hartford, Ala.

LIBELED: 12-8-58, Dist. Nebr.

CHARGE: 402(a)(3)—contained insects and rodent hair fragments while held for sale.

DISPOSITION: 1-9-59. Default—delivered to public institutions for use as animal feed.

25819. Shelled peanuts. (F.D.C. No. 42507. S. No. 14-580 P.)

QUANTITY: 60 124-lb. bags at Chicago, Ill.

SHIPPED: 10-27-58, from Anadarko, Okla.

LIBELED: 11-24-58, N. Dist. Ill.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 2-2-59. Consent—claimed by Gold Kist Peanut Growers, Anadarko, Okla. The product was reconditioned resulting in the release of 56 125-lb. bags as fit for food.

25820. Unshelled peanuts, shelled peanuts, and dried split peas. (F.D.C. No. 42756. S. Nos. 24-354/6 P, 52-786 P.)

QUANTITY: 55 50-lb. bags of unshelled peanuts, 300 115-lb. bags and 49 115-lb. bags of shelled peanuts, and 336 100-lb. bags of dried split peas, at Los Angeles, Calif.

SHIPPED: Between 4-17-58 and 10-27-58, from Portales, N. Mex., San Antonio, Tex., Comanche, Tex., and Spokane, Wash.

LIBELED: 1-7-59, S. Dist. Calif.

CHARGE: 402(a)(3)—contained rodent urine and rodent excreta; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 1-26-59. Consent—claimed by Overland Terminal Warehouse Co., Los Angeles, Calif. Segregated; 948 lbs. of peas, 116 lbs. of unshelled peanuts, and 759 lbs. of shelled peanuts were destroyed.

25821. Unshelled almonds. (F.D.C. No. 42742. S. No. 36-182 P.)

QUANTITY: 24 80-lb. bags at Philadelphia, Pa.

SHIPPED: 10-31-58, from Chico, Calif.

LIBELED: 12-23-58, E. Dist. Pa.

CHARGE: 402(a)(3)—contained insects, and moldy and gummy nuts while held for sale.

DISPOSITION: 1-20-59. Consent—claimed by Continental Nut Co., Chico, Calif. Segregated; 81 lbs. destroyed.

*See also No. 25768.

25822. Unshelled almonds. (F.D.C. No. 42658. S. No. 10-147 P.)

QUANTITY: 18 cases, 24 1-lb. bags each, at Rochester, N.Y.

SHIPPED: 10-22-58, from Sacramento, Calif.

LIBELED: 1-15-59, W. Dist. N.Y.

CHARGE: 402(a)(3)—contained insects and moldy nuts while held for sale.

DISPOSITION: 2-12-59. Default—destruction.

25823. Unshelled almonds (2 seizures). (F.D.C. Nos. 42584, 42638. S. Nos. 10-274 P, 36-079 P.)

QUANTITY: 613 cases, 24 1-lb. bags each, at Buffalo, N.Y., and Philadelphia, Pa.

SHIPPED: 10-20-58 and 11-1-58, from Sacramento, Calif.

LIBELED: 12-11-58 and 12-22-58, W. Dist. N.Y., and E. Dist. Pa.

CHARGE: 402(a)(3)—contained insects, insect-infested nuts, moldy, rancid, shriveled, and decomposed nuts while held for sale.

DISPOSITION: 1-9-59 and 1-22-59. Consent—claimed by California Almond Growers Exchange, Sacramento, Calif. The article was returned to the claimant and commingled with the article involved in the seizure actions reported in food notice of judgment No. 25824. The commingled lot was reconditioned by shelling and sorting with the result that 623 lbs. were destroyed as unfit.

25824. Unshelled almonds (2 seizures). (F.D.C. Nos. 42588, 42761. S. Nos. 42-038 P, 42-603 P, 49-321 P.)

QUANTITY: 88 cases, 24 1-lb. bags each, and 4 80-lb. sacks, at Sacramento, Calif., and 65 cases, 24 1-lb. bags each, at Tacoma, Wash.

SHIPPED: The Sacramento lot was shipped between 11-11-58 and 11-24-58, by the California Almond Growers' Exchange, from Sacramento, Calif., to Seattle, Wash., and from there returned to Sacramento on 12-10-58. The Tacoma lot was shipped on 11-26-58, from Sacramento, Calif., by the California Almond Growers' Exchange.

LABEL IN PART: (Bag) "California Soft Shell Almonds"; "California Soft Shell Almonds Blue Diamond Brand Packed by California Almond Growers' Exchange"; and (sacks) "California Almonds * * * Variety IXL."

LIBELED: 12-19-58 and 1-6-59, N. Dist. Calif., and W. Dist. Wash.

CHARGE: 402(a)(3)—contained insects, moldy, gummy and decomposed nuts, shriveled nuts, and empty shells when shipped.

DISPOSITION: 1-27-59 and 1-28-59. Consent—claimed by California Almond Growers' Exchange. The article was returned to the claimant and commingled with the article involved in the seizure actions reported in food notice of judgment No. 25823. The commingled lot was reconditioned by shelling and sorting with the result that 623 lbs. were destroyed as unfit.

25825. Unshelled almonds. (F.D.C. No. 42585. S. No. 5-052 P.)

QUANTITY: 30 cases, 24 1-lb. bags each, at Baltimore, Md.

SHIPPED: 11-9-58, from Chico, Calif.

LIBELED: 12-18-58, Dist. Md.

CHARGE: 402(a)(3)—contained insects, decomposed nuts, and shriveled nuts while held for sale.

DISPOSITION: 2-13-59. Default—destruction.

25826. Unshelled filberts. (F.D.C. No. 42762. S. No. 41-179 P.)

QUANTITY: 10 50-lb. bags at Seattle, Wash.

SHIPPED: 11-20-58 and 12-2-58, from Tigard, Oreg., by Gholson & Gholson.

LABEL IN PART: "Tigard Brand Oregon No. 1 Barcelona Filberts."

LIBELED: 1-6-59, W. Dist. Wash.

CHARGE: 402(a)(3)—contained insects and decomposed nuts when shipped.

DISPOSITION: 1-21-59. Consent—claimed by S. & W. Fine Foods Inc., San Francisco, Calif. The article was subsequently commingled with the articles involved in the libel actions reported in notices of judgment Nos. 25827 and 25828. The commingled lot was reconditioned resulting in the destruction of 37½ lbs. of nuts as unfit.

25827. Unshelled filberts. (F.D.C. No. 42532. S. No. 41-163 P.)

QUANTITY: 48 cases, 24 1-lb. bags each, at Seattle, Wash.

SHIPPED: 10-17-58, from Portland, Oreg.

LIBELED: On or about 12-1-58, W. Dist. Wash.

CHARGE: 402(a)(3)—contained insects, decomposed nuts, shriveled nuts and empty shells while held for sale.

DISPOSITION: 1-21-59. Consent—claimed by S. & W. Fine Foods, Inc., San Francisco, Calif. The article was subsequently commingled with the articles involved in the libel actions reported in notices of judgment Nos. 25828 and 25826. The commingled lot was reconditioned resulting in the destruction of 37½ lbs. of nuts as unfit.

25828. Unshelled filberts. (F.D.C. No. 42583. S. No. 42-688 P.)

QUANTITY: 49 cases 24 1-lb. bags each, at Seattle, Wash.

SHIPPED: 11-13-58 and 11-14-58, from Tigard, Oreg.

LIBELED: 12-22-58, W. Dist. Wash.

CHARGE: 402(a)(3)—contained insects and empty shells while held for sale.

DISPOSITION: 1-21-59. Consent—claimed by S. & W. Fine Foods, Inc., San Francisco, Calif. The article was subsequently commingled with the articles involved in the libel actions reported in notices of judgment Nos. 25827 and 25826. The commingled lot was reconditioned resulting in the destruction of 37½ lbs. of nuts as unfit.

25829. Unshelled English walnuts. (F.D.C. No. 42587. S. No. 36-181 P.)

QUANTITY: 109 100-lb. bags at Philadelphia, Pa.

SHIPPED: 12-5-58, from New York, N.Y.

LIBELED: 12-29-58, E. Dist. Pa.

CHARGE: 402(a)(3)—contained insect-damaged nuts, and rancid and moldy nuts while held for sale.

DISPOSITION: 1-20-59. Consent—claimed by Continental Nut Co., Chico, Calif. Segregated; 146 lbs. destroyed.

25830. Unshelled mixed nuts. (F.D.C. No. 42763. S. No. 42-691 P.)

QUANTITY: 53 50-lb. bags at Seattle, Wash.

SHIPPED: 11-22-58, from Modesto, Calif.

LIBELED: 1-6-59, W. Dist. Wash.

CHARGE: 402(a) (3)—contained insect-damaged nuts and moldy nuts while held for sale.

DISPOSITION: 1-21-59. Consent—claimed by S. & W. Fine Foods, Inc., San Francisco, Calif. Segregated; 76 lbs. destroyed.

25831. Unshelled mixed nuts and unshelled brazil nuts. (F.D.C. No. 42571. S. Nos. 16-759/60 P.)

QUANTITY: 66 cases, 24 1-lb. boxes each, of unshelled mixed nuts, and 52 cases, 24 1-lb. boxes each, of unshelled brazil nuts, at Knoxville, Tenn.

SHIPPED: 11-7-58 and 11-14-58, from Chicago, Ill., and New York, N.Y.

LIBELED: 12-15-58, E. Dist. Tenn.

CHARGE: 402(a) (3)—contained decomposed brazil nuts while held for sale.

DISPOSITION: 1-29-59 and 3-6-59. Consent—claimed by Robert L. Berner Co., Chicago, Ill. Segregated; 185 lbs. destroyed.

OILS AND FATS*

25832. Table and cooking oil. (F.D.C. No. 42829. S. Nos. 10-548/50 P.)

QUANTITY: 146 cases, 6 1-gal. cans each, at Braddock, Pa., in possession of Cuda Co.

SHIPPED: The corn oil ingredient of the article was shipped from Decatur, Ill., prior to 10-18-58, and the cottonseed oil ingredient of the article was shipped from Louisville, Ky., on 10-9-58.

LABEL IN PART: (Can) "Romolo Brand Superfine Olive Oil Imported from Italy * * * Packed * * * for John Cuda, Inc., Pittsburgh, Pa.," "San Marto Brand Quality Oil 75% Peanut, Corn and Cotton Seed Oil 25% Pure Olive Oil Packed by The Cuda Co., Pittsburgh, Pa.," and "Italy Brand Oil * * * 80% Peanut, Corn & Cottonseed Oil 20% Imported Olive Oil Harmless color and Flavor added Packed and distributed by The Cuda Co., Pittsburgh, Pa."

RESULTS OF INVESTIGATION: Examination showed that the article consisted essentially of (Romolo brand and Italy brand) corn oil and (San Marto brand) cottonseed oil with little or no olive oil.

The article was manufactured by Cuda Co., from corn oil and cottonseed oil shipped as described above.

LIBELED: 2-13-59, W. Dist. Pa.

CHARGE: 403(a)—while held for sale, the label statements "Olive Oil" (Romolo brand) and "20% Imported Olive Oil" (Italy brand) were false and misleading as applied to a product containing corn oil with little or no olive oil; and the label statement "25% Pure Olive Oil" (San Marto brand) was false and misleading as applied to a product containing cottonseed oil with little or no olive oil;

403(k)—the labeling failed to bear a statement that the article (all lots) contained artificial flavoring; and

403(i) (2)—the label of the article (Romolo brand) failed to bear the common or usual name of each ingredient since the presence of corn oil was not declared.

DISPOSITION: 6-15-59. Consent—claimed by Ernest Cuda, Allegheny County, Pa., and relabeled.

*See also No. 25755.

25833. Olive oil. (F.D.C. No. 42847. S. No. 57-929 P.)

QUANTITY: 8 55-gal. drums at Mount Vernon, N.Y.

SHIPPED: Prior to 12-3-58, from Italy.

LABEL IN PART: "Product of Italy."

LIBELED: 2-24-59, S. Dist. N.Y.

CHARGE: 402(b) (2)—when shipped, tea seed oil had been substituted in whole or in part for olive oil.

DISPOSITION: 10-8-59. Consent—claimed by Schroeder Bros., Inc., New York, N.Y., and exported to France.

25834. Olive oil. (F.D.C. No. 42836. S. Nos. 57-923 P, 57-926 P.)

QUANTITY: 13 55-gal. drums at New York, N.Y.

SHIPPED: Prior to 12-8-58, from Italy.

LABEL IN PART: "Product of Italy."

LIBELED: 3-4-59, S. Dist. N.Y.

CHARGE: 402(b) (2)—when shipped, tea seed oil had been substituted in whole or in part for olive oil.

DISPOSITION: 10-8-59. Consent—claimed by Schroeder Bros., Inc., New York, N.Y., and exported to France.

25835. Olive oil. (F.D.C. No. 42889. S. No. 33-465 P.)

QUANTITY: 56 ctns., 6 1-gal. cans each, at Brooklyn, N.Y.

SHIPPED: Prior to 12-3-58, from outside the United States, in bulk drums and thereafter repacked by the dealer at Brooklyn, N.Y., into the cans described above.

LIBELED: 4-6-59, E. Dist. N.Y.

CHARGE: 402(b) (2)—when shipped, tea seed oil had been substituted in part for olive oil; and 403(a)—while held for sale, the label statement "100% Pure Imported Olive Oil," was false and misleading.

DISPOSITION: 10-19-59. Consent—claimed by Schroeder Bros., Inc., New York, N.Y., and exported to France.

25836. Olive oil. (F.D.C. No. 42888. S. No. 33-462 P.)

QUANTITY: 90 ctns., 6 1-gal. cans each, at Brooklyn, N.Y.

SHIPPED: In bulk drums, from outside the United States.

RESULTS OF INVESTIGATION: Examination showed that the article was a mixture of tea seed oil and olive oil. The oil was repacked from bulk drums into the above-described cans on or about 1-30-59.

LIBELED: 4-6-59, E. Dist. N.Y.

CHARGE: 402(b) (2)—when shipped, tea seed oil had been substituted in part for olive oil; and 403(a)—while held for sale, the label statement "100% Pure Olive Oil," was false and misleading.

DISPOSITION: 9-15-59. Consent—claimed by J. Ossola Co., New York, N.Y., and exported to the original foreign supplier in Italy, namely, Raffineria Bruzia, Calabria, Italy.

25837. Vegetable shortening. (F.D.C. No. 43162. S. No. 58-052 P.)

QUANTITY: 232 cases, 12 jars each, at Jersey City, N.J.

SHIPPED: 2-10-59, from Brooklyn, N.Y., by Nutola Fat Products Corp.

LABEL IN PART: (Jar) "BMCo. Manischewitz Pareve Manifat * * * Net Weight 1 Lb. 4 Oz. The B. Manischewitz Company, Distributor Cincinnati, Ohio - Jersey City, N.J."

RESULTS OF INVESTIGATION: Examination showed that the article was short weight.

LIBELED: 5-28-59, Dist. N.J.

CHARGE: 403(e) (2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 8-28-59. Default—delivered to charitable institutions for their use and not for sale.

25838. Corn oil. (F.D.C. No. 43039. S. No. 10-952 P.)

QUANTITY: 151 cases, 6 cans each, at Jeannette, Pa., in possession of Jeannette Importing Corp.

SHIPPED: 3-20-59, from Decatur, Ill.

LABEL IN PART: (Can) "Contents One Gallon Mazza Brand Pure Corn Oil * * * Distributed By Jeannette Importing Corp. Jeannette, Pa."

RESULTS OF INVESTIGATION: The article was repacked by the dealer, from corn oil in bulk containers shipped as described above. Examination showed that the article was short volume.

LIBELED: 5-29-59, W. Dist. Pa.; libel amended 6-9-59.

CHARGE: 403(e) (2)—while held for sale, the article failed to bear a label containing an accurate statement of the quantity of contents since the label statement "One Gallon" was inaccurate.

DISPOSITION: 7-13-59. Consent—claimed by Jeannette Importing Corp., and brought into compliance with the law.

SPICES, FLAVORS, AND SEASONING MATERIALS*

25839. Poppyseed. (F.D.C. No. 43280. S. Nos. 63-890/1 P.)

QUANTITY: 14 120-lb. drums at Mount Vernon, N.Y.

SHIPPED: Between 5-22-59 and 6-12-59, from Stamford, Conn. This was a return shipment.

LABEL IN PART: "Bestovall Whole Dutch Poppy Seed Cleaned * * * H. A. Johnston Co., Mt. Vernon, N.Y."

LIBELED: 7-10-59, S. Dist. N.Y.

CHARGE: 402(a) (3)—contained insects and insect larvae when shipped.

DISPOSITION: 8-5-59. Default—destruction.

25840. Monosodium glutamate. (F.D.C. No. 43320. S. No. 64-066 P.)

QUANTITY: 1 100-lb. drum at Cambridge, Mass.

SHIPPED: 5-1-59, from Decatur, Ill.

LIBELED: 7-27-59, Dist. Mass.

*See also Nos. 25765, 25784.

CHARGE: 402(b)(2)—while held for sale, salt had been substituted in part for glutamate; 402(b)(4)—salt had been added to the article so as to increase its bulk or weight and reduce its quality or strength; and 403(a)—the label statement “99% Plus Monosodium Glutamate” was false and misleading as applied to a product which contained approximately 9.8 percent salt and less than 90 percent sodium glutamate.

DISPOSITION: 9-21-59. Default—destruction.

25841. Black pepper. (F.D.C. No. 42886. S. No. 6-186 P.)

QUANTITY: 9 gross and 9 dozen tins at Baltimore, Md.

SHIPPED: 1-9-59 and 1-10-59, from Brooklyn, N.Y., by Safe Owl Products, Inc.

LABEL IN PART: (Tin) “Flagstaff Brand Pure Black Pepper Net 1-¼ Oz. Distributors Flagstaff Foods Perth Amboy, N.J.”

LIBELED: 3-17-59, Dist. Md.

CHARGE: 402(b)(2)—when shipped, ground buckwheat hulls had been substituted in whole or in part for black pepper; 402(b)(4)—ground buckwheat hulls had been added to or mixed or packed with the article so as to increase its bulk or weight and reduce its quality; 403(a)—the label statement “Pure Black Pepper” was false and misleading; and 403(e)(2)—the label statement “Net 1-¼ Oz” was inaccurate (the article was short weight).

DISPOSITION: 4-8-59. Default—delivered to charitable organizations.

25842. Red pepper hulls. (F.D.C. No. 42890. S. No. 46-919 P.)

QUANTITY: 6 300-lb. bbls. at Chicago, Ill.

SHIPPED: 10-29-58, from Redgranite, Wis., by Chicago Pickle Co., Inc.

LIBELED: 3-16-59, N. Dist. Ill.

CHARGE: 402(a)(3)—contained insects when shipped.

DISPOSITION: 4-8-59. Default—destruction.

25843. Salt. (F.D.C. No. 42924. S. No. 62-465 P.)

QUANTITY: 144 100-lb. bags at Chicago, Ill.

SHIPPED: 2-27-59, from Manistee, Mich., by Morton Salt Co.

LABEL IN PART: “Morton K. D. Granulated Salt, Morton Salt Company, Chicago, Illinois.”

LIBELED: 4-7-59, N. Dist. Ill.

CHARGE: 402(a)(3)—contained sand and grit when shipped.

DISPOSITION: 7-21-59. Consent—destruction.

25844. Vanilla. (F.D.C. No. 43018. S. No. 61-142 P.)

QUANTITY: 4 5-gal. kegs at Detroit, Mich.

SHIPPED: 2-24-59, from Cleveland, Ohio, by Quality Brands, Inc.

LABEL IN PART: “Full Bean Pure Vanilla Contains Pure Bourbon Full Bean Extract * * * Quality Brands, Inc. * * * 460 Woodland Ave. Cleveland 15, Ohio.”

RESULTS OF INVESTIGATION: Examination showed that the article contained added vanillin, an artificial flavoring.

LIBELED: 5-18-59, E. Dist. Mich.

CHARGE: 403(a)—when shipped, the label statement “Pure Vanilla” was false and misleading; 403(i)(2)—the article was fabricated from two or more ingredients, and its label failed to bear a label containing the common or usual name of each such ingredient; and 403(k)—the article contained an artificial flavoring, vanillin, and it failed to bear a label stating that fact.

DISPOSITION: 7-22-59. Consent—claimed by Quality Brands, Inc., and relabeled.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE*

25845. Bakon yeast. (F.D.C. No. 41177. S. Nos. 50-985/6 M, 74-890/1 M.)

INFORMATION FILED: 9-16-58, S. Dist. N.Y., against Bakon Yeast, Inc., New York, N.Y.

SHIPPED: Between 8-22-56 and 4-10-57, from New York to California.

RESULTS OF INVESTIGATION: Examination disclosed that the article contained salt.

CHARGE: 403(a)—when shipped, the label statements “No Salt,” and “Best Flavor For Salt Free Diets” were false and misleading.

PLEA: Guilty.

DISPOSITION: 6-23-59. Corporation fined \$600.

25846. Beverage base sirups (assorted flavors). (F.D.C. No. 42173. S. Nos. 13-116/21 P.)

QUANTITY: 623 cases, 5 btls. each, at Detroit, Mich.

SHIPPED: 6-23-58 and 6-30-58, from Columbus, Ohio.

RESULTS OF INVESTIGATION: Analysis showed that the article contained less than the declared amount of vitamin C.

LIBELED: 9-17-58, E. Dist. Mich.

CHARGE: 402(b)(1)—while held for sale, a valuable constituent, vitamin C, had been in part omitted or abstracted from the article; and 403(a)—the label statements “1000 International Units of Vitamin C” and “ $\frac{1}{3}$ bottle * * * contains $\frac{1}{2}$ minimum daily requirements of Vitamin C” were false and misleading.

DISPOSITION: 4-27-59. Consent—claimed by Midwest Fruit Flavors, Inc., Columbus, Ohio, reprocessed and relabeled.

25847. Vitamin capsules. (F.D.C. No. 42974. S. No. 12-013 P.)

QUANTITY: 206 100-capsule btls. at Detroit, Mich.

SHIPPED: 11-23-58, from Newark, N.J.

RESULTS OF INVESTIGATION: Examination showed that the article contained approximately 78 percent of the declared amounts of vitamin A and vitamin B₁.

LIBELED: 4-8-59, E. Dist. Mich.

CHARGE: 402(b)(1)—while held for sale, the valuable constituents, vitamin A and vitamin B₁, had been in part omitted or abstracted from the article; and 403(a)—the label statement “Each Gelet Contains: Vitamin A Palmitate 25,000 U.S.P. Units * * * Vitamin B-1 * * * 10 mg.” was false and misleading.

*See also No. 25752.

DISPOSITION: 8-13-59. Default—destruction.

25848. Vitamin tablets. (F.D.C. No. 43296. S. Nos. 22-710/11 P.)

QUANTITY: 216 100-tablet btls., 14 500-tablet btls., and 85 1,000-tablet btls., at Tulsa, Okla.

SHIPPED: On or about 6-1-56, from St. Louis, Mo.

RESULTS OF INVESTIGATION: Examination showed that the tablets contained less vitamin B₁, vitamin C, and vitamin B₁₂, than represented.

LIBELED: 7-16-59, N. Dist. Okla.

CHARGE: 402(b)(1)—while held for sale, the valuable constituents, vitamin B₁, vitamin C, and vitamin B₁₂, had been in part omitted or abstracted from the article.

DISPOSITION: 8-5-59. Default—destruction.

25849. Special vitamin and feeding oil. (F.D.C. No. 42605. S. No. 26-857 P.)

QUANTITY: 5 drums at Minneapolis, Minn.

SHIPPED: 11-22-58, from Harrison, N.J., by Nopco Chemical Co.

LABEL IN PART: "Net Wt. 410 Nopco Special Vitamin A & D Feeding Oil 600 D * * * 1500 A Per Gram Control No. 5482."

RESULTS OF INVESTIGATION: Analysis showed that the article contained less than 50 percent of the declared amount of vitamin D.

LIBELED: 1-14-59, Dist. Minn.

CHARGE: 402(b)(1)—when shipped, a valuable constituent, vitamin D, had been in part omitted or abstracted from the article; and 403(a)—the label statement "600 D * * * Per Gram" was false and misleading.

DISPOSITION: 3-10-59. Default—denatured for use as animal feed.

25850. Vitamin supplement. (F.D.C. No. 42930. S. No. 47-823 P.)

QUANTITY: 14 cases, 12 1-pint btls. each, at Hartford, Conn.

SHIPPED: Early 1958, from Philadelphia, Pa.

RESULTS OF INVESTIGATION: Examination showed that the article contained approximately 50 percent of the declared amount of vitamin B₂ and approximately 78 percent of the declared amount of vitamin B₁.

LIBELED: 4-17-59, Dist. Conn.

CHARGE: 402(b)(1)—while held for sale, the valuable constituents, vitamin B₁ and vitamin B₂, had been in whole or in part abstracted or omitted from the article; 403(a)—the label statement "Each Teaspoonful (6 cc.) Contains: * * * Thiamin HCl (B₁) 1 mg. Riboflavin (B₂) 2 mg." was false and misleading, and 403(j)—the article purported to be and was represented as a food for special dietary uses by reason of its vitamin and mineral content and its label failed to bear, as required by regulations, a statement of the proportion of the minimum daily requirements of vitamin B₁, riboflavin, and iron supplied by a specified quantity of the product when consumed by children during a period of one day.

DISPOSITION: 6-26-59. Default—delivered to a charitable institution.

INDEX TO NOTICES OF JUDGMENT F.N.J. NOS. 25751 TO 25850

PRODUCTS

	N.J. No.		N.J. No.
Alfalfa hay	25792	Grain screenings, mixed	25793
Almonds, unshelled	25768,	Great Northern beans, dried	25768,
	25821-25825		25805
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Bakery products	25751, 25752	Lard	25755
Baking mixes	25766, 25785	Lentils, dried	25808
Beans, black-eyed. <i>See</i> Peas,		Lima beans, dried	25805
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dried	25804	pancake, blueberry	25785
Great Northern, dried	25768, 25805	Monosodium glutamate	25840
lima, dried	25805	Mung beans, dried	25806
mung, dried	25806	Mushrooms, dried	25811
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pinto, dried	25766	Nuts	25818-25831
Beverage base sirups (assorted		Oats, pulverized	25791
flavors)	25846	Oils and fats	25832-25838
Blueberries, fresh	25795-25800	Olive oil	25833-25836
Bran, mustard	25784	Orange juice	25802
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Bread and roll mix	25766	unshelled	25820
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Cereals and cereal products	25751-		25807-25809
	25785	green, dried, whole	25808
Cheese	25789, 25790	split, dried	25805, 25820
Chokecherry preserves	25803	yellow	25808
Cornmeal	25753-25755	Pepper(s), black	25841
Corn oil	25838	hulls, red	25842
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Flour	25754,	flavors)	25846
	25755-25764, 25783, 25804	Spices, flavors, and seasoning	
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ucts	25804-25813	shortening	25837
Grains. <i>See</i> Feeds and grains.			

	N.J. No.		N.J. No.
Vitamin, mineral, and other products of special dietary significance -----	25845-25850	Walnuts, English, unshelled----	25829
		Wheat -----	25769-25782
		Yeast, bakon-----	25845

SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS

	N.J. No.		N.J. No.
Alsen Farmer's Elevator Co.:		Cole, H. C., Milling Co., Inc.:	
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Arenson, A., Co.:		Continental Grain Co.:	
dried mushrooms-----	25811	wheat -----	25769, 25778
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Atwood Larson:		Cuda, John, Inc.:	
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Bent, G. H., Co.:		Eastman, Harry:	
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Berkshire Foods, Inc.:		Eshelman Grain, Inc.:	
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fresh blueberries-----	25795	flour -----	25762
Berry, R. W.:		Farmers Co-operative Grain Co.:	
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Bieniecki Bros.:		Farmers Union Co-operative	
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Biltmore Food Products Co., Inc.:		butter -----	25786
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yellow split peas, dried len-		fresh blueberries-----	25795
tils, and dried whole green		Flagstaff Foods:	
peas -----	25808	black pepper-----	25841
Bullis, Bertha:		Fox DeLuxe Foods, Inc.:	
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California Almond Grower's Ex-		Fulton County Farm Bureau Co-	
change:		operative:	
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Transfer Co. <i>See</i> Reilley,		unshelled filberts-----	25826
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Capitol Bakers:		flour, lard, and cornmeal-----	25755
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Charbonneau Packing Corp.:		dried beans and flour-----	25804
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Cia. Comercial Schovelin, Ltd.:		wheat -----	25770
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Clem Wholesale Grocer Co.:		flour, lard, and cornmeal-----	25755
cornmeal and flour-----	25754		

	N.J. No.		N.J. No.
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tive:		chokecherry preserves-----	25803
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Livingston, M., & Co.:		flour -----	25757
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	N.J. No.		N.J. No.
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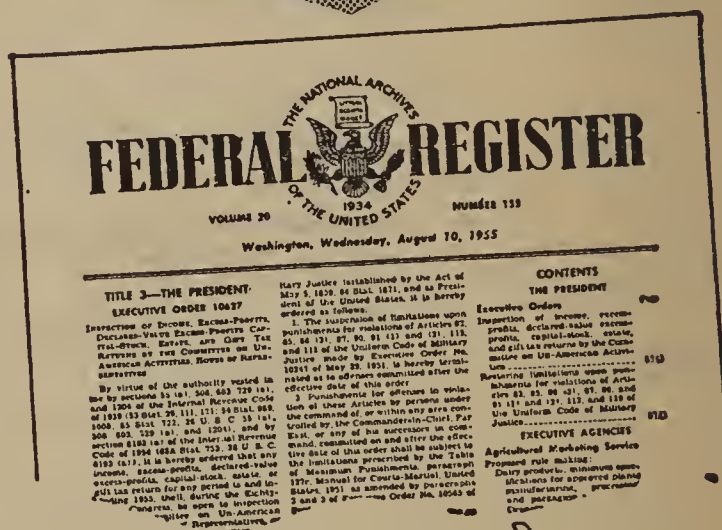
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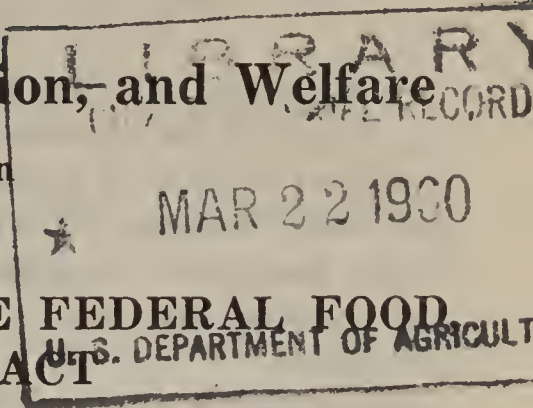
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U.S. Department of Health, Education, and Welfare

Food and Drug Administration



NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

25851-25900

FOODS

The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were adulterated or misbranded within the meaning of the Act when introduced into and while in interstate commerce, or while held for sale after shipment in interstate commerce. These cases involve (1) seizure proceedings in which decrees of condemnation were entered by default, or by consent, and (2) criminal proceedings which were terminated upon pleas of guilty or nolo contendere. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the criminal proceedings are against the *firms* or *individuals* charged to be responsible for violations.

Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D.C., *February 23, 1960.*

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**SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN
VIOLATIONS REPORTED IN F.N.J. NOS. 25851-25900**

Adulteration, Section 402(a) (1), the article contained a deleterious substance which may have rendered it injurious to health; Section 402(a) (3), the article consisted in part of a filthy or decomposed substance, or it was otherwise unfit for food; Section 402(a) (4), the article had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth; Section 402(b) (2), a substance had been substituted wholly or in part for the article.

Misbranding, Section 403(a), the labeling of the article was false and misleading; Section 403(b), the article was offered for sale under the name of another food; Section 403(e) (2), the article was in package form and it failed to bear a label containing an accurate statement of the quantity of contents in terms of weight, measure, or numerical count; Section 403(g), the article purported to be and was represented as a food for which a definition and standard of identity had been prescribed by regulation, and (1) it failed to conform to such definition and standard; and (2) its label failed to bear the name of the food specified in the definition and standard and the common name of the optional ingredient contained therein; Section 403(i) (2), the article was not subject to the provisions of Section 403(g) and was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each ingredient; Section 403(j), the article purported to be and was represented for special dietary uses, and its label failed to bear such information concerning its vitamin, mineral, and other dietary properties as the Secretary has determined to be, and by regulation prescribed as, necessary in order fully to inform purchasers as to its value for such uses.

CEREALS AND CEREAL PRODUCTS

FLOUR

25851. Flour. (F.D.C. No. 42770. S. Nos. 44-324/26 P.)

QUANTITY: 171 25-lb. bags at Dublin, Ga., in possession of Werden Co.

SHIPPED: Between 9-22-58 and 11-11-58, from Whitewater, Kans.

LIBELED: 1-6-59, S. Dist. Ga.

CHARGE: 402(a) (3)—contained rodent urine; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 3-4-59. Default—destruction.

25852. Flour. (F.D.C. No. 42724. S. Nos. 24-293 P, 24-298 P.)

QUANTITY: 317 100-lb. bags at Vernon, Calif.

SHIPPED: Between October and November 1958, from Seattle, Wash.

LIBELED: 3-4-59, S. Dist. Calif.

CHARGE: 402(a) (3)—contained insects and rodent excreta pellets while held for sale.

DISPOSITION: 4-1-59. Consent—claimed by Fisher Flouring Mills Co., Seattle, Wash., and converted into animal feed.

25853. Flour. (F.D.C. No. 42729. S. Nos. 54-185 P, 54-187 P.)

QUANTITY: 454 25-lb. bags at Dyersburg, Tenn., in possession of Edenton-Lamb Co.

SHIPPED: Between 10-11-58 and 11-13-58, from Abilene and Salina, Kans.

LIBELED: 3-5-59, W. Dist. Tenn.

CHARGE: 402(a)(3)—contained rodent urine and rodent excreta pellets; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 4-1-59. Consent—claimed by Edenton-Lamb Co. Segregated; 202 bags denatured.

25854. Flour. (F.D.C. No. 42738. S. No. 48-321 P.)

QUANTITY: 105 50-lb. bags at Oakland, Calif.

SHIPPED: 2-16-59, from Logan, Utah.

LIBELED: 3-12-59, N. Dist. Calif.

CHARGE: 402(a)(3)—contained rodent urine while held for sale.

DISPOSITION: 5-5-59. Default—destruction.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS

25855. Rice. (F.D.C. No. 43186. S. No. 22-159 P.)

QUANTITY: 16 100-lb. bags at Topeka, Kans.

SHIPPED: 4-10-59, from Stuttgart, Ark.

LIBELED: 6-15-59, Dist. Kans.

CHARGE: 402(a)(3)—contained insects and insect excreta while held for sale.

DISPOSITION: 7-31-59. Default—delivered to a public institution for use as animal feed.

25856. Wheat. (F.D.C. No. 43036. S. No. 58-477 P.)

QUANTITY: 114,480 lbs. at Denver, Colo.

SHIPPED: 5-22-59, from Lagrange, Wyo., by La Grange Grain Co.

LIBELED: 5-27-59, Dist. Colo.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 6-1-59. Consent—claimed by Wright-Lorenz Grain Co., Inc., Salina, Kans., and reconditioned by scouring and washing.

25857. Wheat. (F.D.C. No. 43046. S. No. 64-751 P.)

QUANTITY: 117,000 lbs. at Denver, Colo.

SHIPPED: 5-25-59, from Kimball, Nebr., by B. W. Larson.

LIBELED: 5-29-59, Dist. Colo.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 6-2-59. Consent—claimed by B. W. Larson. Segregated; 12,000 lbs. denatured for use as animal feed.

25858. Wheat. (F.D.C. No. 43040. S. No. 65-787 P.)

QUANTITY: 120,000 lbs. at Buffalo, N.Y.

SHIPPED: 5-14-59, from Sandusky, Ohio, by R. L. Rathbun Feed & Grain Co.

LIBELED: 5-29-59, W. Dist. N.Y.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 6-3-59. Consent—claimed by Pillsbury Co., Grain Div., Buffalo, N.Y., and denatured for use as animal feed.

25859. Wheat. (F.D.C. No. 43041. S. Nos. 65-789 P, 65-791 P.)

QUANTITY: 243,400 lbs. at Buffalo, N.Y.

SHIPPED: 5-21-59, from Wooster, Ohio, by Ohio Equity Exchange Co., Inc.

LIBELED: 5-29-59, W. Dist. N.Y.

CHARGE: 402(a) (3)—contained rodent excreta pellets when shipped.

DISPOSITION: 6-4-59. Consent—claimed by Ohio Equity Exchange Co., Inc., and denatured for use as animal feed.

25860. Wheat. (F.D.C. No. 43034. S. No. 60-703 P.)

QUANTITY: 118,140 lbs. at Spokane, Wash.

SHIPPED: 5-7-59, from Antelope, Mont., by Snyder Grain Co.

LIBELED: 5-27-59, E. Dist. Wash.

CHARGE: 402(a) (3)—contained rodent excreta pellets when shipped.

DISPOSITION: 6-5-59. Consent—claimed by Cargill, Inc., Antelope, Mont. Segregated; 3,810 lbs. destroyed.

25861. Wheat. (F.D.C. No. 43026. S. No. 42-730 P.)

QUANTITY: 116,400 lbs. at Spokane, Wash.

SHIPPED: 5-11-59, from Havre, Mont., by Centennial Mills, Inc.

LIBELED: 5-21-59, E. Dist. Wash.

CHARGE: 402(a) (3)—contained rodent excreta pellets when shipped.

DISPOSITION: 6-9-59. Consent—claimed by Centennial Flouring Mills Co. Segregated; 3,610 lbs. denatured for use as animal feed.

25862. Wheat. (F.D.C. No. 43185. S. No. 64-913 P.)

QUANTITY: 119,400 lbs. at Denver, Colo.

SHIPPED: 5-28-59, from Burns, Wyo., by Burns Farmers Cooperative Supply Association Elevators.

LIBELED: 6-4-59, Dist. Colo.

CHARGE: 402(a) (3)—contained rodent excreta pellets when shipped.

DISPOSITION: 6-12-59. Consent—claimed by J. Lynch and Co., Inc., Salina, Kans. Segregated; 4,250 lbs. denatured, and 500 lbs. destroyed.

25863. Wheat. (F.D.C. No. 43031. S. No. 42-336 P.)

QUANTITY: 89,280 lbs. at Seattle, Wash.

SHIPPED: 5-12-59, from Glasgow, Mont., by Occident Elevator.

LIBELED: 5-26-59, W. Dist. Wash.

CHARGE: 402(a) (3)—when shipped, contained rodent excreta pellets.

DISPOSITION: 6-15-59. Consent—claimed by Van Dusen Harrington Div., F. H. Peavey & Co., Minneapolis, Minn., and denatured for use as animal feed.

25864. Wheat. (F.D.C. No. 43022. S. No. 42-729 P.)

QUANTITY: 108,850 lbs. at Spokane, Wash.

SHIPPED: 5-1-59, from Plevna, Mont., by Farmers Cooperative Association.

LIBELED: 5-19-59, E. Dist. Wash.

CHARGE: 402(a) (3)—contained rodent excreta pellets when shipped.

DISPOSITION: 6-17-59. Consent—claimed by Farmers Union Grain Terminal. Segregated; 2,000 lbs. denatured for use as animal feed.

25865. Wheat. (F.D.C. No. 43193. S. No. 66-027 P.)

QUANTITY: 112,600 lbs. at Buffalo, N.Y.

SHIPPED: 6-12-59, from Sherrodsville, Ohio, by Carroll County Farm Bureau Cooperative.

LIBELED: 6-18-59, W. Dist. N.Y.

CHARGE: 402(a)(3)—when shipped, contained rodent excreta pellets.

DISPOSITION: 6-22-59. Consent—claimed by Farm Bureau Cooperative Association, Inc., Columbus, Ohio, and converted into animal feed.

25866. Wheat. (F.D.C. No. 43431. S. No. 76-801 P.)

QUANTITY: 90,120 lbs. at Tacoma, Wash.

SHIPPED: 7-27-59, from Shonkin, Mont., by Gallatin Valley Milling Co.

LIBELED: 8-25-59, W. Dist. Wash.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 9-2-59. Consent—claimed by Fisher Flouring Mills Co., Seattle, Wash., and converted into animal feed.

25867. Cereal. (F.D.C. No. 43368. S. No. 3-435 P.)

QUANTITY: 170 100-lb. bags at Norfolk, Va.

SHIPPED: 5-28-59, from Cedar Rapids, Iowa.

LIBELED: 8-26-59, E. Dist. Va.

CHARGE: 402(a)(3)—contained insects, insect fragments, insect webbing, and rodent hair fragments while held for sale.

DISPOSITION: 10-16-59. Default—delivered to a public institution for use as animal feed.

25868. Kellogg's Krumbles. (F.D.C. No. 43386. S. No. 48-867 P.)

QUANTITY: 60 cases, 12 9-oz. pkgs. each, at Billings, Mont.

SHIPPED: 5-7-59, from San Leandro, Calif., by Kellogg Co.

LABEL IN PART: "Krumbles Kellogg's Krumbles Shreds of Whole Wheat."

LIBELED: 7-14-59, Dist. Mont.

CHARGE: 402(a)(3)—contained insect fragments; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 8-13-59. Default—destruction.

25869. Unpopped popcorn. (F.D.C. No. 42611. S. Nos. 36-668/70 P.)

QUANTITY: 29 bales, 24 10-oz. bags each, 4 bales, 24 1-lb. bags each, and 3 bales, 12 2-lb. bags each, at Forrest City, Ark.

SHIPPED: Between 6-20-58 and 9-20-58, from Memphis, Tenn.

LIBELED: 12-15-58, E. Dist. Ark.

CHARGE: 402(a)(3)—contained insects and insect excreta while held for sale.

DISPOSITION: 2-5-59. Default—delivered to a public institution for use as animal feed.

CHOCOLATE, CONFECTIONERY, AND SIRUP**CHOCOLATE PRODUCT**

25870. Cocoa powder. (F.D.C. No. 43372. S. Nos. 57-983/4 P.)

QUANTITY: 20 88.184-lb. bags, and 6 unlabeled 90-lb. bags, at Elizabeth, N.J.

SHIPPED: 11-17-58 and 6-8-59, from New York, N.Y., by J. F. Braun & Sons.

LABEL IN PART: (20-bag lot) "Danish Low-Fat Cocoa Powder * * * Product of Denmark Compex Corp. New York, N.Y."

LIBELED: 9-1-59, Dist. N.J.

CHARGE: 403(g) (1)—when shipped, the article failed to conform to the definition and standard of identity for low-fat cocoa since the article was prepared from cacao nibs having a cacao shell content of more than 1.75 percent of weight.

DISPOSITION: 9-14-59. Default—destruction.

CONFECTIONERY

25871. Candy (F.D.C. No. 42392. S. Nos. 1-876 P, 1-902/4 P, 2-896 P, 2-917 P, 36-969/70 P.)

INFORMATION FILED: 2-27-59, N. Dist. Ga., against Crown Candy Co., Inc., Atlanta, Ga., Paul L. Dorn, president, and Joe H. Williams, secretary-treasurer.

SHIPPED: Between 6-5-58 and 7-2-58, from Georgia to South Carolina, Florida, Tennessee, and North Carolina.

LABEL IN PART: (Case) "Crown's Peco Flake Quality Candies 23 Lbs. Crown Candy Co., Inc. Atlanta, Ga.," (box) "Net Weight One Full Pound Peggy Kellogg Butter Peanut Brittle Sold only by Sears, Roebuck and Company, Chicago, Illinois and other leading cities," and "Old Fashioned Peanut Squares Net Weight 30 From Crown Candy Company Manufacturers Atlanta, Ga."

CHARGE: 402(a) (3)—contained insect parts, rodent hairs, and rodent hair fragments; and 402(a) (4)—prepared and packed under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 4-2-59. Corporation—\$250 fine; 6-3-59, each individual—\$25 fine which was remitted.

25872. Candy. (F.D.C. No. 38585. S. Nos. 3-394 M, 23-190/1 M.)

INFORMATION FILED: 1-31-57, S. Dist. N.Y., against Anthony Scaccianoce, Bronx, N.Y.

SHIPPED: 8-24-55, from New York to Rhode Island and Massachusetts.

CHARGE: 402(a) (3)—contained insects and insect fragments; and 402(a) (4)—prepared under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 3-4-57. \$100 fine.

SIRUP

25873. Sorghum molasses and ribbon cane sirup. (F.D.C. No. 42154. S. Nos. 53-415/6 M.)

INFORMATION FILED: 9-11-58, E. Dist. Tex., against John H. McVay, Sulphur Springs, Tex.

LABEL IN PART: (Jar) "PURE SORGHUM MOLASSES Net Contents 2 Lbs. Made and Sold by JOHN H. McVAY" or "PURE RIBBON CANE SYRUP Sold by JOHN H. McVAY * * * Approximately 2 Lbs."

ALLEGED VIOLATION: On 11-8-57, while a number of unlabeled jars of molasses and sirup were being held for sale after shipment in interstate commerce, the defendant caused the above labels to be affixed to the jars, which acts resulted in the molasses and the sirup becoming adulterated and misbranded.

CHARGE: 402(b)(2)—a mixture of sorghum and partially inverted sugar sirup had been substituted for the articles while held for sale; 403(a)—the label statements "Pure Sorghum Molasses" and "Pure Ribbon Cane Syrup" were false and misleading; 403(b)—the articles were offered for sale under the name of another food; and 403(i)(2)—the labels failed to bear the common or usual name of each ingredient of the articles.

PLEA: Guilty.

DISPOSITION: 9-15-58. Fine of \$100.

25874. Sorghum sirup. (F.D.C. No. 42973. S. No. 27-644 P.)

QUANTITY: 15 cases, 12 cans each, at Red Oak, Iowa.

SHIPPED: 10-11-58, from Rudy, Ark., by Ray Sloan.

LABEL IN PART: (Can) "Pure Country Sorghum * * * Weight 4½ Lbs. or More Made For Ray Sloan, Distr., Rudy, Arkansas," or "Country Sorghum Made From Cane * * * Made For C. Owen, Galena, Kansas, General Delivery, Net Weight 4½ Lbs."

LIBELED: 4-9-59, S. Dist. Iowa.

CHARGE: 402(b)(2)—when shipped, invert sugar sirup had been substituted in whole or in part for sorghum sirup; and 403(a)—the label statements "Pure Country Sorghum" or "Country Sorghum Made From Cane" were false and misleading.

DISPOSITION: 5-11-59. Default—delivered to a public institution for its use and not for sale.

DAIRY PRODUCTS

BUTTER

25875. Butter. (F.D.C. No. 43502. S. Nos. 62-838/9 P.)

QUANTITY: 81 64-lb. cubes, 1 33-lb. cube, and 1 64½-lb cube, at Chicago, Ill.

SHIPPED: Cream was shipped between 8-27-59 and 9-1-59, from Wisconsin, Indiana, Missouri, Kentucky, Arkansas, and Iowa, by various shippers.

RESULTS OF INVESTIGATION: Examination showed that decomposed cream was used in the manufacture of butter.

LIBELED: 9-22-59, N. Dist. Ill.

CHARGE: 402(a)(3)—contained a decomposed substance when shipped.

DISPOSITION: 10-6-59. Consent—claimed by Ernster Bros., Chicago, Ill., and converted into butter oil.

CHEESE

25876. Cheese. (F.D.C. No. 43366. S. No. 64-025 P.)

QUANTITY: 2,000 lbs. at Cabot, Vt., in possession of Vermont Cheese Products, Inc.

SHIPPED: Between 3-26-59 and 5-21-59, from Hillside, N.J.

LIBELED: 8-27-59, Dist. Vt.

CHARGE: 402(a)(3)—contained moldy cheese; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 9-10-59. Default—destruction.

25877. Cheese curd paste and cottage cheese. (F.D.C. No. 41163. S. Nos. 75-995 M, 76-038 M.)

INFORMATION FILED: 6-18-58, Dist. Mass., against White Creamery Co., Inc., Charlestown, Mass.

ALLEGED VIOLATION: On 8-8-57, while a quantity of cottage cheese was being held for sale by the defendant after shipment in interstate commerce, the defendant caused a quantity of such cottage cheese to be packed into retail 8-oz. cartons labeled "White Brand Low-Cal Non-Fat Salt-Free Cottage Cheese," which act resulted in the cottage cheese in such retail cartons being misbranded.

The information alleged also that the defendant, on 7-21-57, shipped a quantity of adulterated cheese curd paste from Maine to Massachusetts.

CHARGE: Cheese curd paste. 402(a)(3)—contained fly parts; and 402(a)(4)—prepared under insanitary conditions.

Cottage cheese. 403(a)—while held for sale, the statements on the label, namely "Non-Fat Salt-Free" were false and misleading as applied to an article that contained fat and was not salt-free; and 403(j)—the article purported to be and was represented as a food for special dietary uses by reason of its use as a means of regulating the intake of sodium in dietary management, and its label failed to bear, as required by regulations, a statement of the number of milligrams of sodium per 100 grams of the article, and a statement of the number of milligrams of sodium in an average serving of the article.

PLEA: Guilty.

DISPOSITION: 9-8-58. Fine—\$500.

FRUITS AND VEGETABLES

CANNED FRUIT

25878. Canned peaches. (F.D.C. No. 43435. S. No. 76-920 P.)

QUANTITY: 38 cases, 24 1-lb. 13-oz. cans each, at Lewiston, Idaho.

SHIPPED: Between 2-26-59 and 3-29-59, from Grandview, Wash., by Top-Side Canning Co., Inc.

LABEL IN PART: (Can) "Top-Side Brand Irregular Slices * * * Halved Elberta Freestone Peaches * * * Packed in Heavy Syrup * * * Top-Side Canning Co., Inc., Grandview, Wash."

LIBELED: 8-26-59, Dist. Idaho.

CHARGE: 403(a)—when shipped, the labeling of the article was false and misleading because of the vignette depicting peach halves and the label statement "Packed in Heavy Syrup," whereas, the article was actually mixed pieces of irregular sizes and shapes packed in light sirup; and 403(g) (2)—the article failed to bear, as required by the definition and standard of identity for canned peaches, the correct name of the optional peach ingredient and the name of the optional packing medium present in the article.

DISPOSITION: 10-9-59. Default—delivered to a charitable institution.

DRIED FRUIT

25879. Raisins. (F.D.C. No. 43448. S. No. 65-769 P.)

QUANTITY: 32 30-lb. boxes at Johnstown, Pa.

SHIPPED: 10-16-58, from Fresno, Calif.

LIBELED: 9-18-59, W. Dist. Pa.

CHARGE: 402(a) (3)—contained insects while held for sale.

DISPOSITION: 10-16-59. Default—destruction.

FRESH FRUIT

25880. Fresh blueberries. (F.D.C. No. 41134. S. No. 64-141 P.)

QUANTITY: 5 crates, 24 1-qt. boxes each, and 7 crates, 16 1-qt. boxes each, at Boston, Mass.

SHIPPED: 7-31-59, from Alton Bay, N.H., by A. W. Guild.

RESULTS OF INVESTIGATION: Examination showed that the article contained maggots.

LIBELED: 7-31-59, Dist. Mass.

CHARGE: 402(a) (3)—contained a filthy substance when shipped.

DISPOSITION: 9-14-59. Default—destruction.

VEGETABLES AND VEGETABLE PRODUCTS

25881. Dried beans, oleomargarine, and lard. (F.D.C. No. 42423. S. Nos. 17-212/4 P.)

INFORMATION FILED: 2-11-59, E. Dist. Ky., against Tri-State Wholesale Co., Inc., Middlesboro, Ky., and E. T. Moore, manager.

ALLEGED VIOLATION: Between 6-20-58 and 9-11-58, while quantities of beans, oleomargarine, and lard were being held for sale after shipment in interstate commerce, the defendants caused the articles to be held in a building that was accessible to rodents and insects and to be exposed to contamination by rodents and insects, which acts resulted in the articles being adulterated.

CHARGE: 402(a) (4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 4-6-59. Sentence was suspended and both the corporation and the individual were placed on probation for 3 years.

On 6-8-59, the defendants were brought before the court on a charge of violating probation since on 5-5-59 defendants were found to be holding food under insanitary conditions. After hearing testimony the court found that the defendants had violated their probation and fined them the costs of the inspection and the hearing and continued their probation.

25882. Canned lima beans. (F.D.C. No. 43104. S. Nos. 38-311 P, 38-313 P, 54-254 P, 54-301 P.)

INFORMATION FILED: 6-19-59, W. Dist. Ark., Allen Canning Co., a corporation, Siloam Springs, Ark., and Delbert E. Allen, president.

SHIPPED: Between 11-8-58 and 11-29-58, from Arkansas to Illinois and Missouri.

LABEL IN PART: (Can) "The Allens Large Lima Beans Prepared From Ripe Dry Lima Beans Contents 15 ozs. Allen Canning Company Packers and Distributors Siloam Springs, Ark."

CHARGE: 402(a)(1)—when shipped, contained stones; and 402(a)(3)—contained insects, insect fragments, larvae, and rodent hairs.

PLEA: Nolo contendere.

DISPOSITION: 7-1-59. Corporation and individual—\$200 fine each, and each placed on probation for one year.

25883. Dried black-eyed peas. (F.D.C. No. 43423. S. No. 1-995 P.)

QUANTITY: 143 100-lb. bags and 1 35-lb. bag at Milledgeville, Ga.

SHIPPED: 5-29-59 and 6-3-59, from Mobile, Ala.

LIBELED: 8-14-59, M. Dist. Ga.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 10-13-59. Default—destruction.

TOMATOES AND TOMATO PRODUCTS

25884. Tomato juice and canned tomatoes. (F.D.C. No. 42856. S. Nos. 9-633/5 P.)

QUANTITY: 63 cases, 12 1-qt. 14-oz. cans each, and 19 cases, 24 1-pt. 2-oz. cans each, of tomato juice, and 48 cases, 24 1-lb. cans each, of tomatoes, at Adams, Mass.

SHIPPED: 11-25-58 and 1-7-59, from Oakfield, N.Y., by Haxton Foods, Inc.

LABEL IN PART: (Can) "Mistletoe Tomato Juice [or "Tomatoes"] * * * Distributed by Butler Coal & Grain Company, Adams, Mass."

LIBELED: 2-26-59, Dist. Mass.

CHARGE: 402(a)(3)—contained decomposed tomato material when shipped.

DISPOSITION: 9-14-59. Default—destruction.

25885. Tomato juice. (F.D.C. No. 43131. S. No. 36-240 P.)

QUANTITY: 173 cases, 24 cans each, at Philadelphia, Pa.

SHIPPED: 2-27-59, from Ontario, N.Y., by Victor Preserving Corp.

LABEL IN PART: (Can) "Garden Brand Tomato Juice Contents 1 Pt. 2 Fl. Oz. Distributed by John Price & Co. Phila. Pa."

LIBELED: 5-1-59, E. Dist. Pa.

CHARGE: 402(a)(3)—contained decomposed tomato material when shipped.

DISPOSITION: 7-15-59. Default—destruction.

25886. Tomato juice. (F.D.C. No. 42866. S. Nos. 10-601/2 P.)

QUANTITY: 10 cases, 24 #2 cans each, and 48 cases, 12 46-oz. cans each, at Pittsfield, Mass.

SHIPPED: 1-22-59, from Oakfield, N.Y., by Haxton Foods, Inc.

LABEL IN PART: (Can) "Mistletoe Tomato Juice * * * Distributed by Butler Coal & Grain Co. Adams, Mass. Butler Flour Company, Pittsfield, Mass."
LIBELED: 3-3-59, Dist. Mass.
CHARGE: 402(a)(3)—contained decomposed tomato material when shipped.
DISPOSITION: 9-14-59. Default—destruction.

NUTS AND NUT PRODUCTS

25887. Shelled almonds. (F.D.C. No. 42802. S. Nos. 3-453/4 P.)

QUANTITY: 567 100-lb. bags and 240 boxes at Suffolk, Va.

SHIPPED: 11-26-58, from Sacramento, Calif., by California Almond Growers Exchange.

LABEL IN PART: (Bag) "California Shelled Almonds Blue Diamond * * * Variety Mission Select Sheller Run 23/25 Packed by California Almond Growers Exchange, Sacramento, Calif.," and (box) "Fancy Almonds Net Weight 25 Lbs. Blue Diamond * * * Packed by California Almond Growers Exchange, Sacramento, California, Blanched Nonpareil 20-22 Special."

LIBELED: 1-27-59, E. Dist. Va.

CHARGE: 402(a)(3)—contained rodent hairs; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 2-17-59. Consent—claimed by California Almond Growers Exchange. Segregated; 96 lbs. destroyed.

25888. Unshelled almonds. (F.D.C. No. 42772. S. No. 32-876 P.)

QUANTITY: 19 cases, 24 1-lb. bags each, at New York, N.Y.

SHIPPED: 11-25-58, from Sacramento, Calif.

LIBELED: 1-19-59, S. Dist. N.Y.

CHARGE: 402(a)(3)—contained insects, moldy nuts, and gummy and shriveled nuts while held for sale.

DISPOSITION: 3-16-59. Consent—claimed by California Almond Growers Exchange, Sacramento, Calif. Segregated; 11 lbs. destroyed.

25889. Shelled pecans. (F.D.C. No. 43311. S. No. 50-316 P.)

QUANTITY: 5 30-lb. ctns. at Dayton, Ohio.

SHIPPED: 6-2-59, from Harlem, Ga.

LIBELED: 7-22-59, S. Dist. Ohio.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 8-26-59. Default—destruction.

25890. Shelled pecans. (F.D.C. No. 42723. S. No. 14-170 P.)

QUANTITY: 116 30-lb. ctns. at Benton Harbor, Mich.

SHIPPED: 1-16-59, from Chicago, Ill.

LIBELED: 3-5-59, W. Dist. Mich.

CHARGE: 402(a)(3)—contained *E. coli* while held for sale.

DISPOSITION: 4-16-59. Default—consumption by animals.

25891. Shelled walnuts. (F.D.C. No. 42672. S. No. 22-254 P.)

QUANTITY: 25 ctns. at Omaha, Nebr.

SHIPPED: 11-7-58, from San Jose, Calif., by Santa Clara Nut Co.

LABEL IN PART: "Light and Light Amber Halves & Pieces Net Weight 25 Lbs. Shelled Walnuts Santa Clara Nut Company, 1590 Little Orchard Street, San Jose, California."

LIBELED: 1-27-59, Dist. Nebr.

CHARGE: 402(a)(3)—contained insects and insect fragments; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 2-26-59. Default—consumption by animals.

25892. Shelled peanuts. (F.D.C. No. 43292. S. No. 62-628 P.)

QUANTITY: 40 125-lb. bags at Chicago, Ill.

SHIPPED: 6-12-59, from Sylvester, Ga., by Houston Peanut Co.

LABEL IN PART: "No. 1 Spanish Peanuts Packed by Houston Gin & Warehouse Co. Sylvester, Georgia."

LIBELED: 7-9-59, N. Dist. Ill.

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 8-5-59. Consent—claimed by Houston Peanut Co. Segregated; 10 lbs. destroyed.

25893. Shelled peanuts. (F.D.C. No. 43184. S. No. 11-603 P.)

QUANTITY: 23 120-lb. bags at Brookfield, Wis.

SHIPPED: 4-18-59, from Portales, N. Mex.

LIBELED: 6-4-59, E. Dist. Wis.

CHARGE: 402(a)(3)—contained insects and insect fragments while held for sale.

DISPOSITION: 6-19-59. Consent—claimed by Vitamin Products Co., Milwaukee and Brookfield, Wis. Segregated; 1,100 lbs. converted into animal feed.

25894. Shelled peanuts. (F.D.C. No. 43346. S. Nos. 74-713/4 P.)

QUANTITY: 480 125-lb. bags at Chicago, Ill.

SHIPPED: 6-25-59 and 6-26-59, from Camilla, Ga., by Camilla Cotton Oil Co.

LIBELED: 8-10-59, N. Dist. Ill.

CHARGE: 402(a)(3)—contained insects and insect fragments; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 9-3-59. Consent—claimed by Camilla Cotton Oil Co. Segregated; 7,250 lbs. found unfit.

25895. Peanut butter. (F.D.C. No. 43013. S. No. 49-913 P.)

QUANTITY: 68 cases, 24 jars each, at Bristol, Va.

SHIPPED: 7-21-58, from Louisville, Ky., by Clark Foods.

LABEL IN PART: (Jar) "Clark's EZ Spred Peanut Butter Net Weight 10 Oz."

RESULTS OF INVESTIGATION: Examination showed that the article was short weight.

LIBELED: 5-13-59, W. Dist. Va.

CHARGE: 403(e) (2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents since the label statement "Net Weight 10 Oz." was inaccurate.

DISPOSITION: 7-7-59. Default—delivered to a charitable institution for its use and not for sale.

25896. Shelled walnuts. (F.D.C. No. 42760. S. No. 47-554 P.)

QUANTITY: 10 ctns. at Boston, Mass.

SHIPPED: 11-1-58, from Hollister, Calif., by Guerra Nut Co.

LABEL IN PART: "25 Lbs, Net Wt. Cal-Best Brand Syrupers Light Pieces California Shelled Walnuts Packed by Guerra Nut Shelling Co. Hollister, Calif."

LIBELED: 1-5-59, Dist. Mass.

CHARGE: 402(a) (3)—contained *E. coli* when shipped.

DISPOSITION: 5-4-59. Default—destruction.

25897. Black walnut meats. (F.D.C. No. 42956. S. No. 10-309 P.)

QUANTITY: 9 ctns, at Pittsburgh, Pa.

SHIPPED: 2-9-59, from Nashville, Tenn., by F. Fleisman Co.

LABEL IN PART: (Ctn.) "25# Net Medium Pasteurized * * * Black Walnut Kernels Tennessee Topps Packed by F. Fleisman Co. Nashville, Tenn."

LIBELED: 3-24-59, W. Dist. Pa.

CHARGE: 402(a) (3)—contained *E. coli*; and 402(a) (4)—prepared and packed under insanitary conditions.

DISPOSITION: 5-8-59. Default—consumption by animals.

OILS AND FATS*

25898. Table and cooking oil. (F.D.C. No. 43425. S. No. 9-874 P.)

QUANTITY: 80 cases at East Rochester, N.Y., in possession of Pierce Oil Co., Inc.

SHIPPED: Olive oil was shipped on 6-22-59, from Hoboken, N.J., and corn oil was shipped on 7-13-59, from Decatur, Ill.

LABEL IN PART: "One Full Gallon Franco * * * Deluxe Salad and Cooking Oil A Blend of Fine Corn Oil Peanut Oil and 10% Pure Olive Oil Packed by F. Cappellino and Sons Rochester, N.Y."

RESULTS OF INVESTIGATION: The article was manufactured by the dealer in part from corn oil and olive oil shipped as described above. Examination showed that the article was short volume.

LIBELED: 8-14-59, W. Dist. N.Y.

CHARGE: 403(e) (2)—while held for sale, the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 10-26-59. Consent—claimed by Pierce Oil Co., Inc., and repacked to the correct weight.

25899. Olive oil. (F.D.C. No. 42835. S. No. 57-921 P.)

QUANTITY: 53 drums at New York, N.Y.

SHIPPED: 11-14-58, from Italy, by Raffineria Bruzia S.P.A., Gioia Tauro, Reggio Calabria, Italy.

*See also No. 25881.

RESULTS OF INVESTIGATION: Examination showed the article to be tea seed oil containing little or no olive oil.

LIBELED: 2-24-59, S. Dist. N.Y.

CHARGE: 402(b) (2)—when shipped, tena seed oil had been substituted in whole or in part for olive oil.

DISPOSITION: 10-24-59. Consent—claimed by A. Fantis, New York, N.Y., and exported to Italy.

25900. Olive oil. (F.D.C. No. 42834. S. No. 57-927 P.)

QUANTITY: 20 55-gal. drums at New York, N.Y.

SHIPPED: 11-7-58, from Italy.

RESULTS OF INVESTIGATION: Examination showed the article to be tea seed oil containing little or no olive oil.

LIBELED: On or about 3-9-59, S. Dist. N.Y.

CHARGE: 402(b) (2)—when shipped, tea seed oil had been substituted in whole or in part for olive oil.

DISPOSITION: 10-26-59. Consent—claimed by John D. Nicolaou Co., New York, N.Y., and exported to France.

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PRODUCTS

	N.J. No.		N.J. No.
Almonds, shelled_____	25887	Kellogg's Krumbles_____	25868
unshelled_____	25888	Krumbles, Kellogg's_____	25868
Beans, black-eyed. <i>See</i> Peas,		Lard_____	25881
black-eyed.		Lima beans, canned_____	25882
dried_____	25881	Molasses, sorghum_____	25873
lima, canned_____	25882	Nuts and nut products____	25887-25897
Blueberries, fresh_____	25880	Oils and fats_____	25898-25900
Butter_____	25875	Oleomargarine_____	25881
Candy. <i>See</i> Confectionery.		Olive oil_____	25899, 25900
Cereals and cereal products____	25851-	Peaches, canned_____	25878
	25869	Peanut(s), shelled_____	25892-25894
Cheese _____	25876	butter_____	25895
cottage_____	25877	Peas, black-eyed, dried_____	25883
curd paste_____	25877	Pecans, shelled_____	25889, 25890
Cocoa powder_____	25870	Popcorn, unpopped_____	25869
Confectionery_____	25871, 25872	Raisins_____	25879
Dairy products_____	25875-25877	Ribbon cane sirup_____	25873
Fats. <i>See</i> Oils and fats.		Rice _____	25855
Flour _____	25851-25854	Sirup, cane, ribbon_____	25873
Fruits and vegetables____	25878-25886	sorghum_____	25874
fruit, canned_____	25878	Sorghum sirup_____	25874
dried_____	25879	molasses _____	25873
fresh_____	25880	Tomato(es), canned_____	25884
tomatoes and tomato prod-		juice_____	25884-25886
ucts_____	25884-25886	Walnut(s), black, meats_____	25897
vegetables and vegetable prod-		shelled_____	25891, 25896
ucts_____	25881-25883	Wheat_____	25856-25866

SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS

	N.J. No.		N.J. No.
Allen, D. E. :		Guerra Nut Shelling Co. :	
canned lima beans_____	25882	shelled walnuts_____	25896
Allen Canning Co. :		Guild, A. W. :	
canned lima beans _____	25882	fresh blueberries_____	25880
Braun, J. F., & Sons:		Haxton Foods, Inc. :	
cocoa powder_____	25870	canned tomatoes and tomato	
Bruzia, Raffineria :		juice_____	25884, 25886
olive oil_____	25899	Houston Gin & Warehouse Co. :	
Burns Farmers Cooperative Sup-		shelled peanuts_____	25892
ply Association Elevators :		Houston Peanut Co. :	
wheat_____	25862	shelled peanuts_____	25892
Butler Coal & Grain Co. :		Kellogg Co. :	
tomato juice and canned		Kellogg's Krumbles_____	25868
tomatoes_____	25884, 25886	La Grange Grain Co. :	
Butler Flour Co. :		wheat _____	25856
tomato juice_____	25886	Larson, B. W. :	
California Almond Growers		wheat _____	25857
Exchange :		McVay, J. H. :	
shelled almonds_____	25887	sorghum molasses and ribbon	
Camilla Cotton Oil Co. :		cane sirup_____	25873
shelled peanuts_____	25894	Moore, E. T. :	
Cappellino, F., & Sons:		dried beans, oleomargarine, and	
table and cooking oil _____	25898	lard_____	25881
Carroll County Farm Bureau		Occident Elevator :	
Cooperative :		wheat _____	25863
wheat_____	25865	Ohio Equity Exchange Co., Inc. :	
Centennial Mills, Inc. :		wheat _____	25859
wheat_____	25861	Owen, D. :	
Clark Foods :		sorghum sirup_____	25874
peanut butter_____	25895	Pierce Oil Co., Inc. :	
Comet Rice Mills :		table and cooking oil_____	25898
rice_____	25855	Price, John, & Co. :	
Compex Corp. :		tomato juice_____	25885
cocoa powder_____	25870	Rathbun, R. L., Feed & Grain	
Crown Candy Co., Inc. :		Co. :	
candy_____	25871	wheat _____	25858
Dorn, P. L. :		Santa Clara Nut Co. :	
candy_____	25871	shelled walnuts_____	25891
Edenton-Lamb Co. :		Scaccianoce, Anthony :	
flour_____	25853	candy _____	25872
Farmers Cooperative		Sears, Roebuck & Co. :	
Association :		candy _____	25871
wheat_____	25864	Sloan, Ray :	
Fleisman, F., Co. :		sorghum sirup_____	25874
black walnut meats_____	25897	Snyder Grain Co. :	
Gallatin Valley Milling Co. :		wheat _____	25860
wheat_____	25866	Top-Side Canning Co., Inc. :	
Guerra Nut Co. :		canned peaches_____	25878
shelled walnuts_____	25896		

	N.J. No.		N.J. No.
Tri-State Wholesale Co., Inc.:		Werden Co.:	
dried beans, oleomargarine, and		flour -----	25851
lard -----	25881	White Creamery Co., Inc.:	
Vermont Cheese Products, Inc.:		cheese curd paste and cottage	
cheese -----	25876	cheese -----	25877
Victor Preserving Corp.:		Williams, J. H.:	
tomato juice -----	25885	candy -----	25871

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

25901-26000

FOODS

The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were adulterated or misbranded within the meaning of the Act when introduced into and while in interstate commerce, or while held for sale after shipment in interstate commerce, and oleomargarine which was sold or offered for sale in violation of the Act. These cases involve (1) seizure proceedings in which decrees of condemnation were entered by default or by consent; (2) criminal proceedings which were terminated upon pleas of guilty or nolo contendere or by a judgment of acquittal after trial; and (3) injunction proceedings involving the entry of consent decrees of injunction and the extension of a temporary restraining order by consent. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the criminal and injunction proceedings are against the *firms* or *individuals* charged to be responsible for violations.

Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D.C., *March 17, 1960.*

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**SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN VIOLATIONS
REPORTED IN F.N.J. NOS. 25901-26000**

Adulteration, Section 402(a) (2), the article, in one case, contained an added deleterious substance which was unsafe within the meaning of Section 406, and, in four cases, the article was a raw agricultural commodity and contained a pesticide chemical which was unsafe within the meaning of Section 408(a) ; Section 402(a) (3), the article consisted in part of a filthy or decomposed substance, or it was otherwise unfit for food ; Section 402(a) (4), the article had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth ; Section 402(b) (1), a valuable constituent had been in whole or in part omitted or abstracted from the article ; Section 402(b) (2), a substance had been substituted wholly or in part for the article ; Section 402(b) (4), a substance had been added to the article or mixed or packed therewith so as to increase its bulk or weight or reduce its quality or strength or make it appear better or of greater value than it was.

Misbranding, Section 403(a), the labeling of the article was false and misleading ; Section 403(b), the article was offered for sale under the name of another food ; Section 403(e), the article was in package form, and it failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor, and (2) an accurate statement of the quantity of contents in terms of weight, measure, or numerical count ; Section 403(f), a word, statement, or other information required by the Act to appear on the label of the article was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use ; Section 403(g) (1), the article purported to be and was represented as a food for which a definition and standard of identity had been prescribed by regulations, and it failed to conform to such definition and standard ; Section 403(h) (1), the article purported to be and was represented as a food for which a standard of quality had been prescribed by regulations, and it fell below such standard ; Section 403(i), the article was not subject to the provisions of Section 403(g), and (1) its label failed to bear the common or usual name of the food, and (2) it was fabricated from two or more ingredients and its label failed to bear the common name of each such ingredient ; Section 403(k), the article contained artificial flavoring and its label failed to state that fact.

Oleomargarine, Section 407(b) (3), the label of the article, when sold or offered for sale, failed to bear (A) the word "oleomargarine" or "margarine" in type or lettering at least as large as any other type or lettering on the label and (B) a full and accurate statement of all ingredients contained in such oleomargarine or margarine.

CEREALS AND CEREAL PRODUCTS

FLOUR

25901. Flour. (F.D.C. No. 42725. S. No. 52-023 P.)

QUANTITY: 44 50-lb. bags at Muscatine, Iowa, in possession of Charles L. Mull & Sons.

SHIPPED: 10-2-58 and 11-25-58, from Peoria, Ill.

LIBELED: 3-4-59, S. Dist. Iowa.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 4-27-59. Default—delivered to a charitable institution for use as animal feed.

25902. Flour and batter mix. (F.D.C. No. 43061. S. Nos. 15-544/5 P.)

INFORMATION FILED: 5-29-59, S. Dist. Ohio, against Peerless Foods, Inc., Dayton, Ohio, and Ezra B. Bimm, president and treasurer of the corporation.

ALLEGED VIOLATIONS: Between 6-25-58 and 10-23-58, the defendants caused quantities of flour and batter mix to be held in a building that was accessible to rodents and insects and to be exposed to contamination by rodents and insects, which acts resulted in the articles being adulterated.

CHARGE: 402(a)(3)—the batter mix contained insects and insect parts; and 402(a)(4)—both articles were held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 6-26-59. Each defendant fined \$500.

25903. Flour. (F.D.C. No. 43390. S. No. 79-985 P.)

QUANTITY: 662 100-lb. bags at Detroit, Mich.

SHIPPED: 5-22-59, from Grand Forks, N. Dak.

RESULTS OF INVESTIGATION: Investigation showed that the article was contaminated by a deleterious chemical, one or more of the isomers of benzenehexachloride, while en route in a railroad car.

LIBELED: 7-10-59, E. Dist. Mich.

CHARGE: 402(a)(3)—while in, and while held for sale after shipment in interstate commerce, the article contained an added deleterious chemical which is unsafe within the meaning of 406.

DISPOSITION: 7-29-59. Consent—claimed by Brown Flour Co., Detroit, Mich., and denatured for use as a non-food substance.

25904. Flour. (F.D.C. No. 43271. S. No. 55-272 P.)

QUANTITY: 119 100-lb. bags at Philadelphia, Pa., in possession of Semple Co.

SHIPPED: 8-8-58, from Decatur, Ill.

LIBELED: 6-17-59, E. Dist. Pa.

CHARGE: 402(a)(4)—held under insanitary conditions.

DISPOSITION: 7-29-59. Default—destruction.

25905. Flour. (F.D.C. No. 43270. S. No. 5-488 P.)

QUANTITY: 27 25-lb. bags at Spencer, W. Va., in possession of Kincaid Wholesale Co.

SHIPPED: 7-7-58, from Cleveland, Ohio.

LIBELED: 6-22-59, S. Dist. W. Va.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 7-30-59. Default—delivered to a public institution for use as animal feed.

25906. Flour. (F.D.C. No. 43295. S. No. 49-964 P.)

QUANTITY: 386 25-lb. bags at East Bernstadt, Ky., in possession of Laurel Grocery Co.

SHIPPED: 6-9-59 or 6-17-59, from Kansas City, Mo.

LIBELED: 7-13-59, E. Dist. Ky.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 8-17-59. Default—delivered to a public institution for use as animal feed.

25907. Flour. (F.D.C. No. 43290. S. No. 73-291 P.)

QUANTITY: 14 100-lb. bags at Brooklyn, N.Y., in possession of I. M. Burnap & Co.

SHIPPED: 5-6-59, from Sikeston, Mo.

LIBELED: 7-21-59, E. Dist. N.Y.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 8-17-59. Default—destruction.

25908. Flour. (F.D.C. No. 43333. S. No. 73-373 P.)

QUANTITY: 7,153 100-lb. bags at Brooklyn, N.Y.

SHIPPED: 7-7-59, from Texas.

LABEL IN PART: "Bread Flour * * * Donated by The People of The United States of America."

RESULTS OF INVESTIGATION: Examination showed that the article had been smoke-damaged in a fire aboard ship while en route from Texas to Italy.

LIBELED: 8-4-59, E. Dist. N.Y.

CHARGE: 402(a)(3)—while in interstate commerce, the article was unfit for food by reason of having been damaged by scorching and absorption of smoke.

DISPOSITION: 8-26-59. Consent—claimed by Catholic Relief Services, N.C.W.C., New York, N.Y., and converted into gluten and starch.

25909. Flour. (F.D.C. No. 43289. S. No. 60-653 P.)

QUANTITY: 400 100-lb. bags at Seattle, Wash.

SHIPPED: 6-2-59, from Great Falls, Mont., by Montana Flour Mills Co.

LABEL IN PART: "Sapphire Stone Ground Whole Wheat Flour Manufactured for Montana Flour Mills Company, Great Falls, Montana."

LIBELED: 7-7-59, W. Dist. Wash.

CHARGE: 402(a)(3)—contained rodent hairs and insect fragments; and 402(a)(4)—prepared under insanitary conditions.

DISPOSITION: 9-1-59. Default—delivered to a public institution for use as animal feed.

25910. Flour. (F.D.C. No. 43302. S. No. 60-652 P.)

QUANTITY: 376 100-lb. bags at Seattle, Wash.

SHIPPED: 3-31-59, from Lewistown, Mont., by Viva-Stone Flour Mills, Inc.

LABEL IN PART: "Viva Whole Wheat Stone Ground Flour."

LIBELED: 7-17-59, W. Dist. Wash.

CHARGE: 402(a)(3)—contained insect fragments and rodent hairs when shipped.

DISPOSITION: 9-1-59. Default—delivered to a public institution for use as animal feed.

25911. Flour. (F.D.C. No. 43300. S. No. 59-750 P.)

QUANTITY: 66 25-lb. bags at Spencer, W. Va., in possession of Cash Feed Store.

SHIPPED: 5-4-59, from Hays, Kans., and Fort Wayne, Ind.

LIBELED: On or about 8-4-59, S. Dist. W. Va.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 9-8-59. Default—delivered to a public institution for use as animal feed.

25912. Flour. (F.D.C. No. 43149. S. No. 53-210 P.)

QUANTITY: 400 25-lb. bags at Ajo, Ariz.

SHIPPED: 3-12-59, from Lamar, Colo.

LIBELED: 5-22-59, Dist. Ariz.

CHARGE: 402(a)(3)—contained rodent urine while held for sale.

DISPOSITION: 9-23-59. Default—delivered to a public institution for use as animal feed.

25913. Flour. (F.D.C. No. 43432. S. No. 71-645 P.)

QUANTITY: 150 100-lb. bags at Macon, Ga., in possession of Birdsey Flour & Feed Mills.

SHIPPED: 7-16-59, from Wichita, Kans.

LIBELED: 8-25-59, M. Dist. Ga.

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 10-13-59. Default—destruction.

25914. Flour. (F.D.C. No. 43532. S. No. 58-870 P.)

QUANTITY: 72 25-lb. bags at Las Cruces, N. Mex., in possession of Valley Products Co.

SHIPPED: 12-8-58, from Amarillo, Tex.

LIBELED: 9-11-59, Dist. N. Mex.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 10-13-59. Default—delivered to a charitable institution for use as animal or poultry feed.

MACARONI AND NOODLE PRODUCTS

25915. Egg noodles and macaroni products. (F.D.C. No. 42576. S. Nos. 47-551/2 P.)

QUANTITY: 7 cases, 12 pkgs. each, 116 cases, 12 bags each, and 1 12-ctn. case of egg noodles, and 20 cases, 12 1-lb. bags each, of macaroni products at Boston, Mass.

SHIPPED: 10-21-58, from Lebanon, Pa., by San Giorgio Macaroni, Inc.

LABEL IN PART: (Pkg.) "San Giorgio Pure Egg Noodles * * * One Full Pound Mfg. by San Giorgio Macaroni, Inc., Lebanon, Pa.," "San Giorgio Pure Egg Noodles * * * Net Wt. 1 Lb. Mfg. by San Giorgio Macaroni, Inc., Lebanon, Pa.," (bag) "San Giorgio * * * Net Wt. 1 Lb. Pure Egg * * * Soup Gems," "San Giorgio * * * Net Wt. 1 Lb. Pure Egg * * * Sea Shells," "San Giorgio * * * Net Wt. 1 Lb. Pure Egg * * * Stars," "San Giorgio * * * Pure Egg Noodles," (ctn.) "San Giorgio * * * Egg Noodles."

LIBELED: 12-17-58, Dist. Mass.

CHARGE: 402(a)(3)—contained insect parts and rodent hairs; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 2-17-59. Default—destruction.

25916. Egg noodles. (F.D.C. No. 43315. S. Nos. 49-848/51 P.)

QUANTITY: 156 ctns., 12 8-oz. pkgs. each, at Evansville, Ind., in possession of Hulman & Co.

SHIPPED: 11-3-58 and 3-4-59, from Louisville, Ky.

LIBELED: 8-4-59, S. Dist. Ind.

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 9-30-59. Default—destruction.

25917. Egg noodles. (F.D.C. No. 43439. S. No. 53-457 P.)

QUANTITY: 165 cases, 12 1-lb. pkgs. each, at Los Angeles, Calif.

SHIPPED: 1-28-59, from New York, N.Y.

LIBELED: 9-9-59, S. Dist. Calif.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 9-30-59. Default—destruction.

25918. Cheese ravioli in sauce. (F.D.C. No. 42741. S. No. 45-828 P.)

QUANTITY: 5 cases, 24 cans each, at Denver, Colo.

SHIPPED: 1-14-59 and 2-4-59, from Oakland, Calif., by American Home Foods, Inc.

LABEL IN PART: (Can) "Chef Boy-Ar-Dee Cheese Ravioli In Sauce Net Wt. 15½ Oz."

LIBELED: 4-10-59, Dist. Colo.

CHARGE: 402(a)(3)—contained rodent hairs, insects, and insect fragments when shipped.

DISPOSITION: 5-21-59. Default—destruction.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS*

25919. Rice. (Inj. No. 333.)

COMPLAINT FOR INJUNCTION FILED: 4-25-58, N. Dist. Calif., against M. D. Green Rice Milling Co., a corporation, maintaining an office at San Francisco, Calif., and operating a rice milling plant at Merritt Station, Yolo County, Calif., and against C. R. Osborne, superintendent of the corporation's Merritt Station plant, and M. S. Green, vice-president and office manager of the corporation.

*See also Nos. 25975, 25985.

CHARGE: The complaint alleged that the defendants were engaged in the business of storing, milling, preparing and distributing rice, and that they had been and were causing to be introduced and delivered for introduction into interstate commerce, such rice which was adulterated under 402(a)(3) because of the presence therein of rodent urine, rodent hairs, and insects, and under 402(a)(4) because it had been prepared, packed, and held under insanitary conditions.

The complaint alleged further that the insanitary conditions in the defendants' Merritt Station plant resulted from and consisted of the storage of rough rice in a building with ill-fitting doors and holes in the tin sheeting siding through which rodents could enter the building; the presence of numerous rodent tracks and rodent excreta pellets on the surface of the rough rice; excreta of either dog or cat origin in the aeration tunnels leading into the center of the piles of rough rice; the presence in the rice mill of mold along the undersurface of the covering to the conveyor lines; the presence of insects, insect fragments, insect larvae, pupae, webbing, frass, and cocoons in and about the conveyor lines throughout the rice mill; the presence of fruit flies on the surface of the coating "sirup" contained in a tank in the mill's coating department; rodent tracks and pellets in and around the raw talc material used in coating the rice; the presence of live moths, moth larvae and cocoons inside the sacking-off bins which held the finished rice, including coated and uncoated whole rice, second head rice and brewers rice; the presence of rodent nests and rodent-gnawed bags among the bags of finished rice stored in the mill, and rodent excreta pellets and rodent urine on the bags of finished rice.

The complaint alleged also that the defendants were well aware that their activities were in violation of the law; that inspections of the defendants' Merritt Station plant were made on October 10, 1956, August 7, 1957, and on February 27 and 28, 1958, by inspectors of the Food and Drug Administration at which times the defendants were informed of the insanitary conditions; and that despite such warnings the defendants failed to correct the insanitary conditions in the plant and continued to introduce adulterated rice into interstate commerce.

DISPOSITION: On April 25, 1958, the court entered a temporary restraining order against the defendants enjoining them from directly or indirectly causing to be introduced and delivered for introduction into interstate commerce, rice or any similar article which was adulterated by reason of the presence therein of rodent urine, rodent hairs, or insects, or because of the preparation, packing or holding of such article under insanitary conditions.

The temporary restraining order also enjoined the defendants against causing the introduction or delivery for introduction into interstate commerce, of rice or any similar article prepared, packed, or held at the defendants' Merritt Station plant unless and until:

(a) the plant was thoroughly cleaned, renovated, and rendered suitable for the preparation, packing, and holding of food for human consumption by eliminating all rodent, insect, dog, and cat filth from the plant, cleaning the equipment, closing the means of ingress and egress of the plant by rodents and insects, and eliminating any similar insanitary conditions which may result in the contamination of food in the plant;

(b) all of the rice on hand at the plant at the time it was cleaned, renovated, and rendered suitable for the storage of food for human consumption was

destroyed, denatured for use as animal feed, or cleaned and otherwise reconditioned under the supervision of the Food and Drug Administration; and

(c) an inspection was made of the plant by the Food and Drug Administration and a report made to the court that the above-mentioned insanitary conditions no longer existed, and that the rice described in subparagraph (b), above, had been destroyed, denatured, or brought into compliance with the law.

Pursuant to agreement of the parties, an order was entered by the court which continued the temporary restraining order in effect until February 15, 1960.

25920. Rice. (F.D.C. No. 43461. S. No. 53-969 P.)

QUANTITY: 47 25-lb. bags and 34 50-lb. bags at Stuttgart, Ark., in possession of Comet Rice Mills.

SHIPPED: 8-28-59, from Syracuse, N.Y.

LIBELED: 9-30-59, E. Dist. Ark.

CHARGE: 402(a)(3)—contained rodent urine and rodent excreta pellets; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 10-30-59. Default—delivered to a public institution for use as animal feed.

25921. Rice. (F.D.C. No. 43468. S. No. 65-777 P.)

QUANTITY: 5 100-lb. bags and 34 cases, 24 1-lb. bags each, at Sharon, Pa.

SHIPPED: 6-30-59, from Youngstown, Ohio.

RESULTS OF INVESTIGATION: The article in the one pound bags was repacked by the dealer from bulk stock shipped as described above.

LIBELED: 10-7-59, W. Dist. Pa.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 11-23-59. Default—destruction.

25922. Barley. (F.D.C. No. 42051. S. No. 26-362 P.)

QUANTITY: 92,060 lbs. at Minneapolis, Minn.

SHIPPED: 6-26-58, from Clark, S. Dak., by Clark County Farmers Elevator Co.

LIBELED: 7-15-58, Dist. Minn.

CHARGE: 402(a)(2)—the article was a raw agricultural commodity and, when shipped, contained a pesticide chemical, namely, a mercurial compound, which was unsafe within the meaning of 408 since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on barley has been prescribed by regulations.

DISPOSITION: 7-18-58. Consent—claimed by Clark County Farmers Elevator Co. Segregated; 18,730 lbs. destroyed.

25923. Wheat. (Inj. No. 345.)

COMPLAINT FOR INJUNCTION FILED: 12-11-58, Dist. Md., against Myron L. Bloom, Sr., St. James, Md.

CHARGE: The complaint allèged that the defendant was engaged in storing and distributing wheat for human consumption, and that he was causing to be introduced and delivered for introduction into interstate commerce, such wheat which was adulterated under 402(a) (3) by reason of the presence of insect and rodent filth in the wheat, and under 402(a) (4) by reason of holding the wheat under insanitary conditions.

The complaint alleged further that the insanitary conditions in the defendant's grain elevator where the wheat was stored resulted from and consisted of the presence of wide-open entrances to the tunnel under the silos and to the elevator boots which allowed insects, birds, and rodents free access to the elevator; spilled wheat in the entrances, containing bird feathers, bird excreta, and rat excreta; spilled wheat up to six inches deep in the elevator boot, containing live insects and decaying on the bottom; live insects in one inch of partly decomposed wheat under the worm screw of the conveyor through which all wheat must pass; accumulations of filth in the tunnel beneath the concrete wheat bins; bin manhole covers left off, and bins thereby left open to all types of contamination; spilled grain on the floor of the bucket elevator head which is open to contamination by birds; the grill opening to the dump bed on the first floor left open to all types of contamination; filthy upper portion of grain cleaner separator and spilled grain and dirt on the floor around said machine; cluttered piles of dusty bags of wheat cleanings on the first floor affording rodent and insect harborages; rat and mouse pellets on the second floor of the grain elevator and in accumulations of spilled wheat; and the floors of the main elevator building deeply carpeted with dust and cleanings, containing thousands of rodent pellets.

The complaint alleged also that the defendant was well aware that his activities were violative of the law; that inspections were made of the defendant's grain elevator during April, July, and September, 1958, at which times the defendant was informed of the insanitary conditions; and that despite such warnings the defendant failed to correct the insanitary conditions in the elevator and continued to introduce wheat for human consumption into interstate commerce, which was adulterated as indicated above.

DISPOSITION: On 12-17-58, the defendant having consented, the court entered a temporary restraining order enjoining the defendant against the acts complained of.

On January 9, 1959, the defendant having consented, the court entered an injunction enjoining the defendant against causing wheat for human consumption held in the defendant's elevator at St. James, Md., to be introduced and delivered for introduction into interstate commerce unless and until:

(a) the elevator was thoroughly cleaned, renovated, and rendered suitable for the storage of wheat for human consumption, and all insect, bird, and rodent filth was removed from the elevator and all equipment used in storing the wheat was cleaned; all insect, bird, and rodent infestation in the elevator was eliminated and the means of ingress and egress to the elevator by insects, birds, and rodents were closed; and any similar insanitary conditions which may result in the contamination of such wheat while held in the elevator were eliminated;

(b) all of the wheat for human consumption on hand in the elevator at the time it was cleaned, renovated, and rendered suitable for the storage of food for human consumption, was destroyed, denatured for use as animal feed,

or cleaned and otherwise reconditioned under the supervision of the Food and Drug Administration; and

(c) an inspection was made of the grain elevator by the Food and Drug Administration, and a report made to the court that the above-mentioned insanitary conditions no longer existed; and that the wheat for human consumption had been destroyed, denatured, or brought into compliance with the law.

25924. Wheat. (F.D.C. No. 43274. S. No. 42-160 P.)

QUANTITY: 100,200 lbs. at Tacoma, Wash.

SHIPPED: 5-20-59, from Dutton, Mont.

RESULTS OF INVESTIGATION: Examination showed that the article was in a railroad car infested with live mice.

LIBELED: 6-22-59, W. Dist. Wash.

CHARGE: 402(a) (3)—contained rodent urine and rodent excreta pellets; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 7-2-59. Consent—claimed by Dutton Farmers Elevator Co. and converted into animal feed.

25925. Wheat. (F.D.C. No. 42589. S. No. 28-474 P.)

QUANTITY: 39,000 lbs. at Hobart, Okla.

SHIPPED: 12-16-58, from Houston, Tex. This was a return shipment.

LIBELED: 12-19-58, W. Dist. Okla.

CHARGE: 402(a) (3)—contained insect-damaged kernels when shipped.

DISPOSITION: 9-3-59. Consent—claimed by Darrell McNutt, Hobart, Okla., and converted into seed wheat.

25926. Wheat. (F.D.C. No. 43180. S. No. 22-160 P.)

QUANTITY: 45,000 lbs. at Kansas City, Kans.

SHIPPED: 5-19-59, from Vermillion, S. Dak., by Farmers Elevator Co.

LIBELED: 6-4-59, Dist. Kans.

CHARGE: 402(a) (3)—contained rodent excreta pellets when shipped.

DISPOSITION: 7-11-59. Consent—claimed by B. C. Christopher & Co., Kansas City, Mo. Segregated; 5,110 lbs. denatured.

25927. Wheat. (F.D.C. No. 43030. S. No. 11-170 P.)

QUANTITY: 114,000 lbs. at Buffalo, N.Y.

SHIPPED: 5-15-59, from Columbus, Ohio, by Farm Bureau Cooperative.

LIBELED: 5-25-59, W. Dist. N.Y.

CHARGE: 402(a) (3)—when shipped, contained rodent excreta pellets.

DISPOSITION: 5-28-59. Consent—claimed by Farm Bureau Cooperative Association, Inc., Columbus, Ohio, and denatured for use as animal feed.

25928. Wheat. (F.D.C. No. 43405. S. No. 49-635 P.)

QUANTITY: 120,000 lbs. at Spokane, Wash.

SHIPPED: 7-10-59, from Hardin, Mont., by Occident Elevator.

LIBELED: 7-24-59, E. Dist. Wash.

CHARGE: 402(a) (3)—contained rodent excreta pellets when shipped.

DISPOSITION: 8-24-59. Consent—claimed by W. R. Glover, t/a Glover Grain Co., Spokane, Wash. Segregated; 5,710 lbs. converted into animal feed.

25929. Wheat. (F.D.C. No. 39824. S. Nos. 48-514/5 M.)

QUANTITY: 122,720 lbs. at Emison, Ind.

SHIPPED: 12-12-56, from Chicago, Ill. This was a return shipment.

LIBELED: 12-26-56, S. Dist. Ind.

CHARGE: 402(a)(2)—the article was a raw agricultural commodity and contained, when shipped, a pesticide chemical, namely, a mercurial compound, which is unsafe within the meaning of 408(a) since no tolerance or exemption from the requirement of a tolerance of a mercurial compound on wheat has been prescribed by regulations.

DISPOSITION: 1-4-57, Cargill, Inc., Minneapolis, Minn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the purpose of allowing the claimant to ship the wheat to the Dry Fork Milling Co., Dry Fork, Va., to be processed into paste under the supervision of the Food and Drug Administration.

The decree also provided that the wheat was not to be sold or disposed of for human or animal consumption, or sold or disposed of contrary to the provisions of the Federal Food, Drug and Cosmetic Act.

On 7-19-57, the Government filed a motion for an order forfeiting the bond, on the grounds that the claimant had failed to comply with the terms and conditions of the bond and the decree. On 6-20-58, by consent, after a pre-trial conference, the court entered the following decree:

HOLDER, District Judge: "Comes now the United States of America by Don A. Tabbert, United States Attorney for the Southern District of Indiana, and Cargill, Inc., claimant herein, and agree to the following facts:

"That on January 4, 1957, a consent decree was entered herein condemning the article of food, namely 122,720 lbs., more or less, of wheat, seized in this action. This decree, among other things, permitted the claimant to retake custody of the condemned wheat for the purpose of shipping the same to the Dry Fork Milling Co. of Dry Fork, Va., to be processed into paste under the supervision or with the approval of the Food and Drug Administration. The decree further prohibited the sale or disposition of the wheat for human or animal consumption.

"Provision was made in said decree for the filing of penal bond in the sum of three thousand dollars (\$3,000) 'conditioned that said wheat herein libeled shall not be sold or disposed of contrary to the provision of the Food, Drug, and Cosmetic Act.' Pursuant to said decree claimant filed a penal bond in the required sum with claimant named as principal therein and The Summit Fidelity & Surety Co. as surety thereon. The bond was duly conditioned upon compliance with the terms of the decree and that the libeled wheat not be sold or disposed of contrary to the provisions of the Food, Drug, and Cosmetic Act.

"On January 4, 1957, the claimant shipped the condemned wheat to the Dry Fork Milling Co. of Dry Fork, Va. The wheat had been sold to the latter company with a notation on the contract that it was 'unfit for human or animal consumption.' The Dry Fork Milling Co. not having been informed of the outstanding Court order, processed the wheat into flour for paste and mixed the bran from the conversion into animal feed which was sold. The conversion into flour and the use of the bran was done without the supervision or approval of the Food and Drug Administration.

"The conduct of Cargill, Inc., in failing to comply with the conditions of the bond was not wilful or devious with intent to evade its obligations under said bond.

"The United States of America consents to accept the sum of two thousand dollars (\$2,000) as settlement on the forfeiture of the bond.

"Claimant consents that this decree be entered forfeiting the bond in the agreed sum of two thousand dollars (\$2,000).

"The Court being fully advised in the premises it is on motion of the parties hereto—

"ORDERED, ADJUDGED, AND DECREED that the claimant's conduct and the facts aforesaid constitute a breach of the terms and conditions of the bond executed by claimant pursuant to the decree entered by this Court as aforesaid.

"IT IS FURTHER ORDERED that the Motion of the United States of America to declare a forfeiture of the bond aforesaid is sustained, and the agreed amount of two thousand dollars (\$2,000) is forfeited, and the United States of America have judgment against claimant, Cargill, Inc., a corporation, and The Summit Fidelity & Surety Co., a corporation, in the sum of two thousand dollars (\$2,000)."

25930. Wheat. (F.D.C. No. 43486. S. No. 47-219 P.)

QUANTITY: 100,000 lbs. at Chicago, Ill.

SHIPPED: 10-5-59, from Walnut, Ill., by Atherton Grain Co., for delivery at Buffalo, N.Y.

LIBELED: 10-21-59, N. Dist. Ill.

CHARGE: 402(a) (3)—contained rodent excreta pellets when shipped.

DISPOSITION: 10-27-59. Consent—claimed by Atherton Grain Co. and converted into animal feed.

25931. Wheat. (F.D.C. No. 43016. S. No. 60-831 P.)

QUANTITY: 100,800 lbs. at Buffalo, N.Y.

SHIPPED: 5-5-59, from Coldwater, Mich., by Williams Grain Corp.

LIBELED: 5-15-59, W. Dist. N.Y.

CHARGE: 402(a) (3)—contained rodent excreta pellets when shipped.

DISPOSITION: 6-1-59. Consent—claimed by Williams Grain Corp., and denatured for use as animal feed.

25932. Wheat. (F.D.C. No. 43015. S. No. 60-830 P.)

QUANTITY: 79,225 lbs. at Buffalo, N.Y.

SHIPPED: 5-1-59, from Cohoctah, Mich., by Floyd E. Lott & Sons.

LIBELED: 5-15-59, W. Dist. N.Y.

CHARGE: 402(a) (3)—contained rodent excreta pellets when shipped.

DISPOSITION: 5-25-59. Consent—claimed by Floyd E. Lott & Sons and denatured.

25933. Wheat. (F.D.C. No. 43019. S. No. 42-727 P.)

QUANTITY: 120,000 lbs. at Spokane, Wash.

SHIPPED: 5-1-59, from Chester, Mont., by General Mills, Inc.

LIBELED: 5-15-59, E. Dist. Wash.

CHARGE: 402(a) (3)—contained rodent excreta pellets when shipped.

DISPOSITION: 5-21-59. Consent—claimed by Martin M. Lanser Co., Spokane, Wash. Segregated; 12,670 lbs. converted into animal feed.

25934. Wheat. (F.D.C. No. 43421. S. No. 52-179 P.)

QUANTITY: 81,200 lbs. at Minneapolis, Minn.

SHIPPED: 7-27-59, from Rake, Iowa, by Farmers Cooperative Elevator.

LIBELED: 8-11-59, Dist. Minn.

CHARGE: 402(a)(2)—when shipped, the article contained a pesticide chemical, namely, a mercurial compound, which is unsafe within the meaning of 408 since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat has been prescribed by regulations.

DISPOSITION: 8-17-59. Consent—claimed by Farmers Cooperative Elevator. Segregated; 5,988 lbs. destroyed.

25935. Wheat. (F.D.C. No. 43201. S. No. 76-587 P.)

QUANTITY: 112,960 lbs. at Hillyard, Wash.

SHIPPED: 6-4-59, from Bonners Ferry, Idaho, by Kootenai Grain Co.

LIBELED: 6-25-59, E. Dist. Wash.

CHARGE: 402(a)(2)—when shipped, the article contained a pesticide chemical, namely, a mercurial compound, which is unsafe within the meaning of 408 since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat has been prescribed by regulations.

DISPOSITION: 7-6-59. Consent—claimed by Eugene S. Cole, t/a Kootenai Grain Co., and decharacterized for use as a non-food substance.

25936. Wheat. (F.D.C. No. 43198. S. No. 63-271 P.)

QUANTITY: 60,000 lbs. at Fostoria, Ohio.

SHIPPED: 6-17-59, from Dundee, Mich., by Karner Bros.

LIBELED: 6-25-59, N. Dist. Ohio.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 7-6-59. Consent—claimed by William Karner and Richard Karner, d/b/a Karner Bros., and converted into animal feed.

25937. Wheat. (F.D.C. No. 43197. S. No. 76-593 P.)

QUANTITY: 121,200 lbs. at Spokane, Wash.

SHIPPED: 6-12-59, from Miles City, Mont., by Occident Elevator Co.

LIBELED: 6-24-59, E. Dist. Wash.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 7-6-59. Consent—claimed by W. R. Glover, t/a Glover Grain Co., Spokane, Wash. Segregated; 13,000 lbs. converted into animal feed.

25938. Wheat. (F.D.C. No. 43418. S. No. 27-269 P.)

QUANTITY: 34,600 lbs. at Minneapolis, Minn.

SHIPPED: 7-30-59, from Rugby, N. Dak., by Rugby Milling Co.

LIBELED: 8-7-59, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 8-17-59. Consent—claimed by Rugby Milling Co. and denatured for use as animal feed.

25939. Wheat. (F.D.C. No. 43419. S. No. 60-742 P.)

QUANTITY: 90,000 lbs. at Tacoma, Wash.

SHIPPED: 7-17-59, from Hardin, Mont., by Occident Elevator Co.

LIBELED: 8-6-59, W. Dist. Wash.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 8-14-59. Consent—claimed by W. R. Glover, t/a Glover Grain Co., and converted into animal feed.

25940. Wheat. (F.D.C. No. 42690. S. No. 51-486 P.)

QUANTITY: 585 bushels at Fairmount, Ind.

SHIPPED: 2-2-59, from Fairmont, Ind., by Grant County Farm Bureau Co-operative, to Chicago, Ill., from where it was returned to Fairmount.

LIBELED: 2-9-59, N. Dist. Ind.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 3-24-59. Consent—claimed by Grant County Farm Bureau Co-operative, Fairmount, Ind., and converted into animal feed.

25941. Wheat. (F.D.C. No. 43404. S. No. 60-497 P.)

QUANTITY: 90,000 lbs. at Tacoma, Wash.

SHIPPED: 6-24-59, from Gildford, Mont., by Greeley Elevator Co.

LIBELED: 7-22-59, W. Dist. Wash.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 7-29-59. Consent—claimed by Martin M. Lanser, Seattle, Wash., and denatured for use as animal feed.

25942. Wheat. (F.D.C. No. 43393. S. No. 66-040 P.)

QUANTITY: 111,000 lbs. at Buffalo, N.Y.

SHIPPED: 7-2-59, from Otterbein, Ind., by Lew Hill Grain Co., Inc.

LIBELED: 7-13-59, W. Dist. N.Y.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 7-15-59. Consent—claimed by Lew Hill Grain Co., Inc., and released for sale as animal feed.

CHOCOLATE, CONFECTIONERY, AND SIRUP

CHOCOLATE PRODUCT

25943. Cocoa powder. (F.D.C. No. 43528. S. No. 57-987 P.)

QUANTITY: 68 90-lb. bags at New York, N.Y.

SHIPPED: 4-23-59, from Boston, Mass., by J. F. Braun & Sons.

RESULTS OF INVESTIGATION: Examination showed that the article was cocoa powder containing in excess of 30 percent shell by weight.

LIBELED: 9-23-59, S. Dist. N.Y.

CHARGE: 403(g)(1)—the article, when shipped, purported to be and was represented as low-fat cocoa, a food for which a definition and standard of identity has been prescribed by regulations, and it failed to conform to the definition and standard since it contained more cocoa shell than is present in cocoa.

DISPOSITION: 10-22-59. Consent—claimed by J. F. Braun & Sons, New York, N.Y., and exported to original foreign supplier in Denmark.

CONFECTIONERY

25944. Chocolate-covered mints. (F.D.C. No. 43426. S. No. 66-201 P.)

QUANTITY: 70 ctns., 24 pkgs. each, at Buffalo, N.Y.

SHIPPED: 7-6-59 and 7-7-59, from Elizabeth, N.J., by Euclid Candy Co., Inc., a subsidiary of Terry Candy Co.

LABEL IN PART: "Terry's Foil Wrapped De Luxe Miniature Thin Mints Chocolate Covered Net Weight 8 Oz. Made of Sugar, Chocolate, Corn Syrup, Vegetable Protein, Emulsifier, Oil of Peppermint and Vanillin."

RESULTS OF INVESTIGATION: Examination showed the article was short weight.

LIBELED: 8-17-59, W. Dist. N.Y.

CHARGE: 403(e) (2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents; 403(i) (2)—the article was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient since "Emulsifier" and "Vegetable Protein" are indefinite; and 403(k)—the article contained vanillin, and it failed to bear a label stating that it was an artificial flavor.

DISPOSITION: 9-9-59. Consent—claimed by Terry Candy Co., Inc., and relabeled.

25945. Candy. (F.D.C. No. 43305. S. No. 56-477 P.)

QUANTITY: 19 16-lb. cases at North Wilkesboro, N.C.

SHIPPED: 6-3-59, from Macon, Ga., by McAfee Candy Co., Inc.

LABEL IN PART: (Case) "Bulk Haystax * * * Candy Made With * * * Manufactured by McAfee Candy Company, Inc., Macon, Georgia."

LIBELED: 7-28-59, M. Dist. N.C.

CHARGE: 402(a) (3)—contained insect fragments and rodent hairs; and 402(a) (4)—prepared under insanitary conditions.

DISPOSITION: 9-8-59. Default—destruction.

25946. Candy bars. (F.D.C. No. 43124. S. No. 3-129 P.)

QUANTITY: 130 boxes, 30 candy bars each, at Tampa, Fla.

SHIPPED: 3-17-59, from Macon, Ga., by Earl's Candy Co.

LABEL IN PART: (Box) "Variety Pack 10¢ * * * Manufactured by Earl's Candy Co., Macon, Ga."

LIBELED: 4-23-59, S. Dist. Fla.

CHARGE: 402(a) (3)—contained rodent hair fragments and insect fragments; and 402(a) (4)—prepared and packed under insanitary conditions.

DISPOSITION: 6-15-59. Default—destruction.

25947. Caramels. (F.D.C. No. 43364. S. No. 74-636 P.)

QUANTITY: 222 cases, 20 bags each, at Chicago, Ill.

SHIPPED: 7-18-59 and 7-22-59, from Denver, Colo., by Brecht Candy Co.

LABEL IN PART: (Bag) "Wolch's * * * Candy Shop Quality Candies * * * Milk Nougat Carmels * * * Net Wt. 1 Pound * * * Wolch Nut & Candy Co., Chicago 47, Illinois."

RESULTS OF INVESTIGATION: Examination showed that the article was short weight.

LIBELED: 8-26-59, N. Dist. Ill.

CHARGE: 403(e) (2)—when shipped, the label of the article failed to bear an accurate statement of the quantity of the contents.

DISPOSITION: 9-17-59. Default—delivered to a charitable institution for its use and not for sale.

25948. Candy mints. (F.D.C. No. 43527. S. No. 72-804 P.)

QUANTITY: 44 cases, 24 bags each, at Brooklyn, N.Y.

SHIPPED: 8-4-59, from Chicago, Ill., by Flavour Candy Co.

LABEL IN PART: (Bag) "Michigan Mints * * * Net Wt. 6½ Oz. * * * Flavour Candy Co., Chicago 12, Ill."

RESULTS OF INVESTIGATION: Examination showed that the article was short weight.

LIBELED: 9-15-59, E. Dist. N.Y.

CHARGE: 403(e) (2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of the contents, since the label statement "Net Wt. 6½ Oz." was inaccurate.

DISPOSITION: 10-8-59. Default—Delivered to charitable institutions.

SIRUP

25949. Sorghum molasses and ribbon cane sirup. (F.D.C. No. 42155. S. Nos. 53-415/6 M, 28-069 P.)

INFORMATION FILED: 1-6-59, W. Dist. La., against Ivey Norris, West Monroe, La.

SHIPPED: 11-8-57 and 1-24-58, from Louisiana to Texas.

CHARGE: 402(b) (2)—when shipped, a product containing a mixture of inverted sugar sirup and other ingredients had been substituted for the articles which were represented to be sorghum molasses and ribbon cane sirup; 403(b)—the articles, consisting of a mixture of inverted sugar sirup and other ingredients, were offered for sale under the names of other foods, namely, sorghum molasses and ribbon cane sirup; and 403(e)—the articles failed to bear labels containing (1) the name and place of business of the manufacturer, packer, or distributor, and (2) an accurate statement of the quantity of contents.

PLEA: Guilty.

DISPOSITION: 8-4-59. Probation for 5 years.

25950. Cane sirup. (F.D.C. No. 42023. S. Nos. 28-077/8 P.)

INFORMATION FILED: 4-29-59, M. Dist. Ala., against Alabama Georgia Syrup Co., a corporation, Montgomery, Ala.

SHIPPED: Between 1-29-58 and 3-10-58, from Alabama to Louisiana.

LABEL IN PART: (Can) "Whitfield new crop Country Georgia Ribbon Cane Pure Syrup Net Wt. 4 lb. 1 Oz. Packed by Alaga Syrup Company Montgomery, Alabama."

CHARGE: 403(a)—when shipped, the label statement "Ribbon Cane Pure Syrup" was false and misleading since the article consisted of a mixture of cane sirup and glucose; 403(b)—the article was offered for sale under the name of another food, namely, cane sirup; and 403(i) (2)—the label of the article failed to bear the name of each ingredient.

PLEA: Nolo contendere.

DISPOSITION: 5-14-59. \$250 fine.

DAIRY PRODUCTS

BUTTER

25951. Butter. (F.D.C. No. 43504. S. Nos. 62-814 P, 64-560 P.)

QUANTITY: 34 64-lb. boxes at Danville, Ill.

SHIPPED: 7-3-59, from Burlington, Kans., by Burlington Creamery Co.

LABEL IN PART: "Creamery Butter Distributed by H. C. Christians Co. Chicago, Ill. * * * Churn No. 60 or 63 19738" or "Creamery Butter Berkshire Foods, Inc. A231 Chicago, Ill."

LIBELED: 7-24-59, E. Dist. Ill.

CHARGE: 402(b)(2)—when shipped, a substance containing less than 80 percent milk fat, by weight, was substituted for butter.

DISPOSITION: 8-17-59. Consent—claimed by Berkshire Foods, Inc., Chicago, Ill., and reworked.

25952. Butter. (F.D.C. No. 43489. S. No. 56-231 P.)

QUANTITY: 17 64-lb. boxes and 1 40-lb. box at Kansas City, Mo.

SHIPPED: On 7-26-59, quantities of cream were shipped from Kinsley, Kans., by Dallas Bowman, and from Benkelman, Nebr., by Floyd Parman, Sr., Frankie C. Lutz, and Marlin Lutz.

RESULTS OF INVESTIGATION: The cream which had been shipped as described above was used in the manufacture of the above-mentioned butter.

LIBELED: 8-5-59, W. Dist. Mo.

CHARGE: 402(a)(3)—when shipped, the cream from which the butter was produced contained a decomposed substance.

DISPOSITION: 9-14-59. Consent—claimed by Independent Creamery Co., Kansas City, Mo., and converted into butter oil.

25953. Butter. (F.D.C. No. 42422. S. Nos. 32-046/7 P.)

INFORMATION FILED: 4-30-59, Dist. Mass., against Whiting Milk Co., a corporation, Charlestown, Mass.

SHIPPED: 8-12-58, from Massachusetts to New York.

CHARGE: 402(b)(1)—a valuable constituent, milk fat, had been in part omitted from the article when shipped; and 402(b)(2)—a product containing less than 80 percent by weight of milk fat had been substituted in part for butter.

PLEA: Guilty.

DISPOSITION: 9-11-59. \$100 fine.

25954. Butter. (F.D.C. No. 43503. S. Nos. 76-510 P, 76-514 P.)

QUANTITY: 20 64-lb. cubes and 26 cases, 23 1-lb. cubes each, at Danville, Ill.

SHIPPED: 9-1-59, from Salina, Kans., by Harding Creamery Co.

LABEL IN PART: "Butter Distributed by Harding Cream Division Omaha, Nebraska" and "Land O' Sunshine Butter * * * Packed for the Winn Dixie Stores, Inc. General Office—Jacksonville, Florida."

RESULTS OF INVESTIGATION: Analysis showed that the butter was made from decomposed cream.

LIBELED: On or about 9-30-59, E. Dist. Ill.

CHARGE: 402(a)(3)—contained a decomposed substance when shipped.

DISPOSITION: 10-14-59. Consent—claimed by Sugar Creek Creamery Co., Danville, Ill., and reworked.

MILK

25955. Nonfat dry milk. (F.D.C. No. 43093. S. No. 46-921 P.)

INDICTMENT RETURNED: 9-14-59, S. Dist. Iowa, against the Exira Creamery Co., a corporation, Exira, Iowa, and Arnold O. Madsen, manager of the corporation's Exira plant.

SHIPPED: 8-16-58, from Iowa to Illinois.

CHARGE: 402(a)(3)—the article contained insect fragments, and filthy milk had been used in the preparation of the article; 403(e)—the article failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor, and (2) an accurate statement of the quantity of contents; and 403(i)(1)—the label of the article failed to bear the common or usual name of the article.

PLEA: Guilty.

DISPOSITION: 9-29-59. Corporation fined \$200. Individual given a sentence of imprisonment for 1 year which was suspended and he was placed on probation for 1 year.

FISH AND SHELLFISH

25956. Fresh whitefish. (F.D.C. No. 42134. S. No. 11-727 P.)

QUANTITY: 3 60-lb. boxes and 2 50-lb. boxes at Detroit, Mich.

SHIPPED: 9-23-58, from Winnipeg, Canada, by Irving I. Snider.

LABEL IN PART: "Manitoba Shoal Lake DSD Whites Medium."

LIBELED: 10-6-58, E. Dist. Mich.

CHARGE: 402(a)(3)—contained parasitic cysts when shipped.

DISPOSITION: 11-6-58. Default—destruction.

25957. Dressed whitefish. (F.D.C. No. 43284. S. No. 62-975 P.)

QUANTITY: 18 60-lb. boxes at Chicago, Ill.

SHIPPED: 6-16-59, from Meadow Lake, Canada, by Clark Fisheries.

LABEL IN PART: "Dressed Medium Whites * * * Product of Canada * * * Clark Fisheries Meadow Lake * * * Dore Lake Sask."

LIBELED: 6-29-59, N. Dist. Ill.

CHARGE: 402(a)(3)—contained parasitic cysts when shipped.

DISPOSITION: 10-8-59. Consent—claimed by Walter's Union Market, Inc., Chicago, Ill., and exported to original foreign supplier in Canada.

25958. Dressed whitefish. (F.D.C. No. 42948. S. Nos. 13-776/7 P.)

QUANTITY: 14 60-lb. boxes at Detroit, Mich.

SHIPPED: 3-8-59, from Winnipeg, Canada, by Canadian Fish Producers, Ltd.

LABEL IN PART: "Product of Canada Canadian Fish Producers Ltd. Winnipeg, Man. 60 Med. Dr. Whites [or "Lge Dr. Whites"] Stevenson Lake Manitoba."

LIBELED: On or about 3-24-59, E. Dist. Mich.

CHARGE: 402(a)(3)—contained parasitic cysts when shipped.

DISPOSITION: 9-22-59. Consent—claimed by Max Halpern, t/a Standard Fish Distributors, Detroit, Mich., and exported to Canada.

25959. Frozen dressed whitefish. (F.D.C. No. 43286. S. Nos. 62-429/30 P.)

QUANTITY: 15 50-lb. boxes of jumbo-size whitefish and 20 60-lb. boxes of medium-size whitefish at Chicago, Ill.

SHIPPED: 6-17-59, from Winnipeg, Canada, by Canadian Fish Producers, Ltd.

LABEL IN PART: "Canadian Fish Producers, Ltd., Winnipeg, Man. * * * 50 JBO Dr. Whites Island Lake Manitoba 3332 [or "Island Lake Med Drsd. Whites"]."

LIBELED: 7-1-59, N. Dist. Ill.

CHARGE: 402(a)(3)—contained parasitic cysts when shipped.

DISPOSITION: 9-9-59. Consent—claimed by Pick-Shapiro Fisheries, Inc., Chicago, Ill., and returned to original foreign supplier in Canada.

25960. Frozen whitefish, frozen shrimp, and frozen halibut. (F.D.C. No. 43297. S. Nos. 73-361/3 P.)

QUANTITY: 10 60-lb. boxes of whitefish, 4 ctns., 10 5-lb. pkgs. each, of shrimp, and 182 halibut, 5,413 lb. total, at New York, N.Y.

SHIPPED: Between 9-23-58 and 5-22-59, from Canada and India.

LIBELED: 7-27-59, S. Dist. N.Y.

CHARGE: 402(a)(3)—contained decomposed whitefish, shrimp, and halibut while held for sale.

DISPOSITION: 8-21-59. Default—destruction.

25961. Frozen ocean perch fillets. (F.D.C. No. 43141. S. No. 48-115 P.)

QUANTITY: 467 5-lb. ctns. at Gloucester, Mass.

SHIPPED: These fillets were from fish caught by the fishing vessel "Marianna II" in the Atlantic Ocean outside the limits of Massachusetts, on April 21, 1959.

LIBELED: 5-5-59, Dist. Mass.

CHARGE: 402(a)(3)—contained parasites and pus pockets when shipped.

DISPOSITION: 7-13-59. Default—delivered to a public institution for use as animal feed.

25962. Dressed whiting. (F.D.C. No. 43520. S. No. 64-009 P.)

QUANTITY: 5,000 1½-lb. ctns. at Gloucester, Mass.

SHIPPED: The fish consisted of a commingled lot which had been caught in the waters of the Atlantic Ocean by the fishing vessel "Little Flower" outside the territorial limits of Massachusetts, and by the fishing vessel "Serafina II" within 4 or 5 miles of the Massachusetts coastline, and unloaded at Gloucester, Mass., on 8-17-59.

LIBELED: 9-2-59, Dist. Mass.

CHARGE: 402(a)(3)—contained decomposed fish when shipped.

DISPOSITION: 10-19-59. Default—destruction.

25963. Frozen whale meat (2 seizure actions). (F.D.C. Nos. 43043, 43044. S. Nos. 61-084/5 P.)

QUANTITY: 30 65-lb. ctns. at Bay City, Mich., and 100 65-lb. ctns. at Burt, Mich.

SHIPPED: 3-14-59 and 3-16-59, from Fond du Lac, Wis., by National Food Sales.

LABEL IN PART: "Frozen Sperm Whale Meat * * * Product of Japan ICM 883 New York," (sticker label) "Passed T25 Feb. 5, 59 Japan Export Frozen Marine Products Inspection Corporation."

LIBELED: 6-1-59, E. Dist. Mich.

CHARGE: 402(a)(3)—contained decomposed whale meat when shipped.

DISPOSITION: 9-3-59. Consent—claimed by Jules Homburger, president, Inter-ocean Chemical & Mineral Corp., New York, N.Y., and exported to original foreign supplier in Japan.

25964. Frozen fresh whiting. (F.D.C. No. 43543. S. No. 72-031 P.)

QUANTITY: 59 cases, 20 3-lb. pkgs. each, at Monroe, N.C.

SHIPPED: 8-25-59, from Gloucester Mass., by Progressive Fish Wharf, Inc.

LABEL IN PART: (Pkg.) "Seven Seas Fresh Frozen Dressed Whiting Packed by Progressive Fish Wharf, Inc. Gloucester, Mass."

LIBELED: 9-18-59, W. Dist. N.C.

CHARGE: 402(b)(2)—when shipped, partially eviscerated whiting had been substituted in part for "Dressed Whiting" which the article was represented to be; 402(b)(4)—partially eviscerated whiting had been packed with the article so as to make it appear to be dressed whiting which is better and of greater value than the article; and 403(a)—the label statement "Dressed Whiting" was false and misleading.

DISPOSITION: 11-5-59. Default—destruction.

25965. Frozen buffalo fish and round carp. (F.D.C. No. 43518. S. No. 73-364 P.)

QUANTITY: 172 lbs. of frozen buffalo fish and 460 lbs. of round carp at New York, N.Y.

SHIPPED: Prior to 5-8-59, from Michigan and the southern part of the United States.

LIBELED: On or about 9-18-59, S. Dist. N.Y.

CHARGE: 402(a)(3)—contained decomposed fish while held for sale.

DISPOSITION: 10-14-59. Default—destruction.

25966. Frozen rock lobster tails. (F.D.C. No. 43559. S. No. 58-271 P.)

QUANTITY: 39 ctns., 4 10-lb. pkgs. each, at New York, N.Y.

SHIPPED: 6-19-59, from Brazil.

LIBELED: 10-6-59, S. Dist. N.Y.

CHARGE: 402(a)(3)—contained decomposed rock lobster tails while held for sale.

DISPOSITION: 10-30-59. Default—destruction.

25967. Frozen breaded shrimp. (F.D.C. No. 43442. S. No. 33-180 P.)

QUANTITY: 75 cases, each containing 4 bags, each bag containing 6 8-oz. baskets, at York, Pa.

SHIPPED: 8-12-59, from Bronx, N.Y., by Redi Food Co., Inc.

LABEL IN PART: (Case) "Shrimp in the Basket * * * Redi Food Co., Inc." and (basket) "Quick Frozen Rudy's Original Shrimp in the Basket."

LIBELED: 9-4-59, M. Dist. Pa.

CHARGE: 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 10-8-59. Default—destruction.

25968. Canned crabmeat. (Inj. No. 347.)

COMPLAINT FOR INJUNCTION FILED: 12-24-58, S. Dist. Fla., against Jacksonville Freezers, Inc., Jacksonville, Fla., and Byron W. Bailey, president of the corporation.

CHARGE: The complaint alleged that the defendants maintained their principal place of business at Jacksonville, Fla., but that they also did business under the name of the Sea Crest Crab Co., at a plant located near Yulee (Chester) and Fernandina Beach, Fla.; and that the defendants were engaged at such plant in the business of preparing, packing, and introducing and delivering for introduction into interstate commerce, crabmeat which was adulterated under 402(a)(4) because such crabmeat had been prepared, packed, and held under insanitary conditions.

The complaint alleged further that the insanitary conditions in the Sea Crest Crab Co. plant resulted from and consisted of ill-fitting doors and torn screening in the windows of the plant; the presence of numerous flies throughout the plant, on the equipment, and on the crabs and crabmeat being prepared and packed; inadequate toilet facilities such as lack of soap, paper towels, and toilet paper, and careless practices on the part of employees in the preparing, packing, and handling of the food, namely, handling and picking crabs without washing their hands after handling equipment or using the toilets; and the presence of rodents in the plant, and allowing crabs cooked in the evening and cooled over night to become contaminated with rodent excreta and gnawed by rodents.

It was alleged also that the defendants were well aware that their activities were in violation of the Act; that since the time the defendants took over the operations of the Sea Crest Crab Co. plant on 3-15-58, three inspections had been made of the plant by the Food and Drug Administration; that insanitary conditions were found to exist at the plant at the time of each inspection; that the defendants were warned of such conditions during the inspections; that despite the warnings conveyed to the defendants, they had in their possession, in their own freezer rooms at their Jacksonville plant, approximately 18,200 lbs. of frozen crabmeat produced at the Sea Crest Crab Co. plant between 3-19-58 and 9-26-58; that such crabmeat was packed in cans labeled in part as follows: "SEA CREST CRAB CO. 1 LB. NET DELUXE CRAB MEAT FERNANDINA BEACH, FLA. Fla. 138 C." "CAPE CANAVERAL Sea-Est Fla 138C SEACREST CRAB CO Net Wt. 5 oz. Permit 30 Distr. by United Shrimp Sales Co., Jacksonville, Fla.," and "Fulton Most Famous Name in Fishing Crabmeat 8 oz. Net [or "1 lb."] Fla. 15-C Packed by Skipper Seafoods [or "Fulton Crabmeat Co."], Yulee, Fla."

It was alleged on information and belief that the defendants would, unless restrained, introduce and deliver for introduction into interstate commerce, such adulterated crabmeat either in cans or as a component of crab sticks, or deviled crabs, or other products made therefrom, and that such crabmeat constituted a menace to interstate commerce because it had been prepared, packed, and held under insanitary conditions.

DISPOSITION: A temporary restraining order was entered against the defendants on 12-24-58. Thereafter, the defendants appeared and, without admitting the allegations of the complaint, consented to the entry of a decree for the purpose of avoiding the expense of presenting contrary proof. The Government objected to the entry of the decree without supporting findings but the court ordered that the objections be overruled. On 3-6-59, a consent decree of permanent injunction was entered against the defendants by which they were permanently enjoined from introducing and delivering for introduction into interstate commerce, the lot of 18,200 lbs. of frozen crabmeat stored in the freezer rooms of the defendants' plant at Jacksonville, Fla.

FRUITS AND VEGETABLES**CANNED FRUIT**

25969. Canned peaches. (F.D.C. No. 43909. S. No. 56-834 P.)

QUANTITY: 949 cases, 24 1-lb. 13-oz. cans each, at Hialeah, Fla.

SHIPPED: 8-4-59, from Easley, S.C., by Jones Canning Co.

LABEL IN PART: (Can) "Hill Top Yellow Freestone Peaches Halves in Heavy Syrup * * * Packed * * * By Jones Canning Company, Easley, S.C."

LIBELED: 11-13-59, S. Dist. Fla.

CHARGE: 403(h) (1)—when shipped, the article purported to be and was represented as canned peaches, a food for which a standard of quality has been prescribed by regulations, and its quality fell below such standard since all peach units of the article tested in accordance with the method prescribed in such standard were not pierced by a weight of not more than 300 grams; the weight of the largest unit in some containers was more than twice the weight of the smallest unit therein; and all units were not untrimmed or so trimmed as to preserve normal shape; and its label failed to bear a statement that it fell below such standard.

DISPOSITION: 12-8-59. Default—delivered to charitable institutions.

FROZEN FRUIT

25970. Frozen blueberries. (F.D.C. No. 43450. S. No. 65-758 P.)

QUANTITY: 902 20-lb. cans at Buffalo, N.Y.

SHIPPED: 9-1-59, from Somerville, Mass., by Nova Scotia Blueberry Exchange Co.

LIBELED: 9-18-59, W. Dist. N.Y.

CHARGE: 402(a) (3)—when shipped, the article contained sour and decomposed blueberries and had a bitter taste; 403(e)—the article failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor, and (2) an accurate statement of the quantity of contents; and 403(i) (1)—the label failed to bear the common or usual name of the food.

DISPOSITION: 10-19-59. Default—destruction.

25971. Frozen blueberries. (F.D.C. No. 43579. S. Nos. 64-219/20 P.)

QUANTITY: 35 ctns., 24 1-qt. boxes each, at Providence, R.I.

SHIPPED: 7-31-59 and 8-5-59, from Boston, Mass., by York & Whitney Co.

LABEL IN PART: (Ctn.) "UCF United Co-Operative Farmers, Inc. Fitchburgh, Mass. York & Whitney Co. Boston, Mass."

LIBELED: 10-6-59, Dist. R.I.

CHARGE: 402(a) (3)—contained maggots when shipped.

DISPOSITION: 11-13-59. Default—destruction.

25972. Frozen strawberries. (F.D.C. No. 42081. S. No. 29-069 P.)

QUANTITY: 296 cases, 24 10-oz. pkgs. each, at Houston, Tex.

SHIPPED: 7-9-58, by Ark-Homa Farms Frozen Foods, Inc., from Fort Smith, Ark.

LABEL IN PART: (Pkg.) "Hills 'O Home Brand."

LIBELED: 8-12-58, S. Dist. Tex.

CHARGE: 402(a)(3)—when shipped, contained decomposed strawberries.

DISPOSITION: 7-23-59. Consent—destruction.

25973. Frozen strawberries. (F.D.C. No. 43410. S. No. 56-016 P.)

QUANTITY: 696 cases, 24 cans each, at Wichita, Kans.

SHIPPED: 6-23-59, from Prairie Grove, Ark., by Kelley Canning Co.

LABEL IN PART: (Can) "Grove Brand Fresh Frozen Strawberries Sliced
* * * Net Weight 10 oz. Packed by Kelley Canning Company, Prairie Grove,
Arkansas 519H9."

LIBELED: 7-30-59, Dist. Kans.

CHARGE: 402(a)(3)—when shipped, the article contained moldy berries; and
403(e)(2)—the article failed to bear a label containing an accurate statement
of the quantity of contents (the article was short weight).

DISPOSITION: 11-12-59. Default—destruction.

VEGETABLES

25974. Dried peas. (F.D.C. No. 43219. S. Nos. 47-014/5 P.)

INFORMATION FILED: 9-9-59, E. Dist. Wash., against Spokane Seed Co., a
corporation, Spokane, Wash., Patrick C. Johnstone, president, James K.
Pence, secretary-treasurer, and Homer B. Fritsch, assistant secretary and
production manager. Amended information, 10-12-59.

SHIPPED: 10-9-58 and 10-10-58, from Washington to Illinois.

LABEL IN PART: (Bag) "Easy Cooking Scotch [or "Green"] Spokane Green-
pod Brand Seed Co. Green [or "Whole"] Peas Spokane Seed Co. Spokane,
Wash. 100 Lbs. Net Weight."

CHARGE: 402(a)(4)—prepared, packed, and held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 10-12-59. Fine of \$250 on the October 9 shipment against the
defendants jointly, and suspended fine of \$250 on the October 10 shipment
against the defendants jointly.

25975. Dried soybeans and rice. (F.D.C. No. 42722. S. Nos. 45-507/8 P.)

QUANTITY: 130 100-lb. bags of dried soybeans and 600 100-lb. bags of rice
at Salt Lake City, Utah, in possession of Lindsey Warehouse Co.

SHIPPED: (Soybeans) 3-3-58, from Blytheville, Ark., and (rice) between 1-2-58
and 1-7-58, from Sacramento, Calif.

LIBELED: 3-11-59, Dist. Utah.

CHARGE: 402(a)(3)—contained (soybeans) insect larvae and insect parts, and
(rice) rodent urine, insects, and insect parts; and 402(a)(4)—held under
insanitary conditions.

DISPOSITION: 7-20-59. Consent—claimed by Rae S. Fujimoto, t/a Fujimoto Co.,
Salt Lake City, Utah, and denatured for use as animal feed.

TOMATO PRODUCTS

25976. Tomato catsup. (F.D.C. No. 43460. S. No. 66-209 P.)

QUANTITY: 115 cases at Pittsburgh, Pa.

SHIPPED: 6-2-59, from Wilson, N.Y., by Wilson Canning Co.

LABEL IN PART: (Can) "Behrhorst * * * Tomato Catsup Contents 7 lb. 8 ozs.
Packed for H. F. Behrhorst & Son, Inc., Pittsburgh, Pa."

LIBELED: 10-10-59, W. Dist. Pa.

CHARGE: 402(a)(3)—contained decomposed tomato material when shipped.

DISPOSITION: 10-28-59. Default—destruction.

25977. Tomato paste. (F.D.C. No. 43412. S. No. 28-789 P.)

QUANTITY: 860 cases, 96 6-oz. cans, at Houston, Tex.

SHIPPED: 1-29-59 and 5-22-59, from Orange, Calif., by Uddo & Taormina Corp. of California.

LABEL IN PART: (Can) "Giardiniera * * * California Tomato Paste * * *
Packed for Uddo & Taormina Company, Buena Park, California."

LIBELED: On or about 7-30-59, S. Dist. Tex.; amended libel on or about 8-4-59.

CHARGE: 402(a)(3)—contained fly eggs and maggots; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 8-25-59. Consent—destruction.

25978. Tomato puree. (F.D.C. No. 43272. S. No. 62-477 P.)

QUANTITY: 124 cases, 6 #10-size cans each, at Chicago, Ill.

SHIPPED: 3-23-59 and 3-30-59, from Dundee, Mich., by College Inn Food Products Corp.

LABEL IN PART: (Stamped on lid of can) "Tomato Puree Packed by College Inn Corp. Dundee, Mich."

LIBELED: 6-22-59, N. Dist. Ill.

CHARGE: 402(a)(3)—contained fly eggs and decomposed tomato material when shipped.

DISPOSITION: 7-22-59. Default—destruction.

NUTS

25979. Cashew nuts. (F.D.C. No. 43189. S. No. 52-310 P.)

QUANTITY: 216 25-lb. tins at Minneapolis, Minn.

SHIPPED: 3-16-59, from New York, N.Y.

LIBELED: 6-18-59, Dist. Minn.

CHARGE: 402(a)(3)—contained insects and moldy nuts while held for sale.

DISPOSITION: 7-31-59. Default—consumption by animals.

25980. Shelled pecans. (F.D.C. No. 42721. S. Nos. 28-375/6 P.)

QUANTITY: 91 30-lb. ctns. at Mobile, Ala.

SHIPPED: 12-5-58, from Lake Village, Ark., by W. E. Livingston & Sons.

LABEL IN PART: (Ctn.) "Pecan Meats Contents 30 Lbs. W. E. Livingston & Sons, Lake Village, Ark. Large [or "Medium"] Pieces."

LIBELED: 3-4-59, S. Dist. Ala.

CHARGE: 402(a)(3)—contained *E. coli*; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 4-7-59. Consent—claimed by H. M. Thames Pecan Co., Mobile, Ala., and reconditioned.

25981. Shelled Spanish peanuts. (F.D.C. No. 42736. S. No. 29-361 P.)

QUANTITY: 600 bags at Dublin, Tex.

SHIPPED: On 2-18-59, a quantity of shelled Spanish peanuts was delivered by the Woldert Peanut Products Co., to the railroad at Dublin, Tex., for shipment to Alameda, Calif.

LABEL IN PART: "No. 1 Hand Picked Wolco Brand Spanish Shelled Peanuts, Woldert Peanut Products Co., Dublin, Texas, Hugo, Oklahoma 125 Lbs. Net Wt."

LIBELED: 3-17-59, N. Dist. Tex.

CHARGE: 402(a)(3)—contained rodent urine, rodent excreta pellets, and rodent hair fragments; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 4-4-59. Consent—claimed by Woldert Peanut Products Co., Dublin, Tex. Segregated; 168 lbs. destroyed.

25982. Shelled peanuts. (F.D.C. No. 43190. S. No. 22-464 P.)

QUANTITY: 46 124-lb. bags at Lincoln, Nebr., in possession of Star Van & Storage Co.

SHIPPED: 9-19-58, from Graceville, Fla.

LIBELED: 6-22-59, Dist. Nebr.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 7-27-59. Default—delivered to public institutions for use as animal feed.

25983. Shelled peanuts. (F.D.C. No. 43165. S. No. 62-597 P.)

QUANTITY: 200 100-lb. bags at Wheeling, Ill.

SHIPPED: 5-7-59, from Dawson, Ga.

LIBELED: 6-1-59, N. Dist. Ill.

CHARGE: 402(a)(3)—contained insects, insect excreta, and insect webbing while held for sale.

DISPOSITION: 7-7-59. Consent—claimed by C. M. Lurch Food Products Co., Inc., Wheeling, Ill. Segregated; 390 lbs. found unfit.

25984. Shelled peanuts. (F.D.C. No. 43047. So. Nos. 16-287 P., 16-290 P.)

QUANTITY: 57 bags and 6 100-lb. bags at Indianapolis, Ind., in possession of Peak Nut Co.

SHIPPED: 8-15-58 and 1-2-59, from Norfolk, Va., and Plymouth, N.C.

LIBELED: 6-4-59, S. Dist. Ind.

CHARGE: 402(a)(3)—contained (57 bags) rodent urine and (6 bags) rodent hairs; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 8-5-59. Default—destruction.

25985. Shelled peanuts and rice (2 seizure actions). (F.D.C. No. 42958. S. Nos. 53-848/9 P, 54-260 P.)

QUANTITY: 15 100-lb. bags of shelled peanuts and 17 100-lb. bags of rice at St. Louis, Mo., in possession of Allen Foods, Inc.

SHIPPED: Between 8-29-58 and 10-20-58, from Albany, Ga., and Houston, Tex.

LIBELED: 3-24-59, E. Dist. Mo.

CHARGE: 402(a)(3)—contained rodent urine, rodent excreta, and rodent-chewed peanuts; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 4-21-59 and 4-28-59. Default—destruction.

25986. Unshelled peanuts. (F.D.C. No. 42655. S. No. 24-359 P.)

QUANTITY: 149 100-lb. bags at Los Angeles, Calif.

SHIPPED: 10-23-58, from Suffolk, Va.

LIBELED: 1-15-59, S. Dist. Calif.

CHARGE: 402(a)(3)—contained insects and moldy and rancid nuts while held for sale.

DISPOSITION: 2-12-59. Consent—claimed by Los Angeles Nut House, Los Angeles, Calif. Segregated; 5,200 lbs. destroyed.

25987. Unshelled peanuts. (F.D.C. No. 43383. S. Nos. 64-761/2 P.)

QUANTITY: 5 50-lb. bags and 157 2-lb. bags at El Paso, Tex., in possession of Sunny State Distributing Co.

SHIPPED: 3-4-59 and 3-10-59, from Portales, N. Mex.

LIBELED: 7-6-59, W. Dist. Tex.

CHARGE: 402(a)(3)—contained rodent urine and rodent excreta pellets; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 8-24-59. Default—delivered to a public institution for use as animal feed.

OILS AND FATS

25988. Table and cooking oils. (F.D.C. No. 43350. S. Nos. 73-485/7 P.)

QUANTITY: 25 cases, 6 cans each, 19 tins, and 44 cans, at Bronx, N.Y.

SHIPPED: 7-6-59 and 7-28-59, from Newark, N.J., by Newark Edible Oil Co., Inc.

LABEL IN PART: "Extra Fine Sassone Brand Contents One Gallon Net * * * 75% * * * Peanut and Corn Oils, 25% * * * Olive Oil," "5 gal. net Sassone * * * Sassone Wholesale Groceries Inc. * * * Blended Oil Composed of 75% corn and/or Peanut Oil—25% Pure Olive Oil," and "One Gallon Pure Olive Oil Superfine."

RESULTS OF INVESTIGATION: Examination showed that the article was short volume.

LIBELED: On or about 9-11-59, S. Dist. N.Y.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 10-23-59. Default—delivered to a charitable institution.

25989. Olive oil. (F.D.C. No. 42837. S. No. 57-922 P.)

QUANTITY: 9 drums at New York, N.Y.

SHIPPED: 10-16-59, from Italy, by Raffineria Bruzia S.P.A., Gioia Tauro, Reggio Calabria, Italy.

RESULTS OF INVESTIGATION: Examination showed the article to be tea seed oil containing little or no olive oil.

LIBELED: 3-6-59, S. Dist. N.Y.

CHARGE: 402(b)(2)—when shipped, tea seed oil had been substituted in whole or in part for olive oil.

DISPOSITION: 10-28-59. Consent—claimed by Nicholas Lekas Corp., New York, N.Y., and exported to France.

OLEOMARGARINE

25990. Oleomargarine. (F.D.C. No. 37255. S. Nos. 24-164 L, 37-280/2 L, 38-554 L, 49-736 L.)

INDICTMENT RETURNED: 8-2-54, S. Dist. N.Y., against Isidore B. Rutstein and Leo Schuster, Jersey City, N.J.

ALLEGED VIOLATION: The indictment alleged that the defendants and co-conspirators, Sol Abramson and Louis Alpert, since October 1, 1950, and continuously thereafter to the date of the filing of the indictment, did combine, conspire, confederate, and agree together and with each other, and with other unknown persons, to commit an offense against the United States, namely, to sell and offer for sale colored oleomargarine in violation of 407 of the Act, and that it was a part of such conspiracy that the defendants, with intent to defraud and mislead, would sell and offer for sale colored oleomargarine which was not properly labeled.

It was alleged further, in pursuance of the conspiracy and to effect the objects thereof, that the defendants, on 8-15-51, were present at the mixing of colored oleomargarine and butter at 514 Westchester Avenue, Bronx, N.Y., and that, on 9-4-51, co-conspirator, Sol Abramson, made out a check to the order of Temptee Butter Co. in the amount of \$498.89 in payment for cartons.

The indictment alleged further that the defendants, on 9-18-51 and 9-25-51, with intent to defraud and mislead, sold and caused to be sold, a number of cartons of colored oleomargarine which was not labeled as required by 407.

CHARGE: 407(b)(3)—the label of the article failed to bear (A) the word “oleomargarine” or “margarine” in type or lettering at least as large as any other type or lettering on the label, and (B) a full and accurate statement of all the ingredients contained in such oleomargarine or margarine.

PLEA: Guilty—by Schuster; not guilty—by Rutstein.

DISPOSITION: On 4-26-55, Schuster was fined \$300.

On 11-14-57, the defendant, Rutstein, having waived a jury, the case came on to trial before the court. After testimony had been adduced, the defendant, on 11-20-57, made a motion for acquittal. The court heard arguments on the motion and requested the parties to file briefs. Thereafter, on 6-6-58, the court delivered the following opinion (163 F. Supp. 71):

BRYAN, District Judge: “Defendants Rutstein and Schuster were charged in a three count indictment with conspiracy to violate the Oleomargarine Act of 1950, 21 U.S.C. §§ 331(m), 333(b), 347(b), and with two substantive violations of that statute. Defendant Schuster pleaded guilty to the conspiracy count and there was a severance as to him. The case was tried before me without a jury against the remaining defendant Rutstein.

“The Oleomargarine Act of 1950, in so far as relevant here, forbids the sale or offer for sale of colored oleomargarine unless it is packaged and la-

beled in accordance with the requirements of the Act. The full text of the relevant Section 347(b) appears in the margin.¹

"The question presented here is whether the labeling requirements of the statute apply only to packages of one pound or less sold in retail establishments, or also to sales at wholesale to jobbers or wholesalers in large sixty-four pound cubes.

"No reported cases have been cited to me which have construed these statutory provisions and research has failed to disclose any. The question appears to be one of first impression.

"Count I of the indictment charges that the defendants Rutstein and Schuster, and Abramson and Alpert, named as co-conspirators but not defendants, conspired to violate 21 U.S.C. § 331(m). Counts II and III charge that on September 18, 1951 and September 25, 1951 respectively, the defendants Rutstein and Schuster, with intent to defraud and mislead, unlawfully sold and caused to be sold to H. Wool & Sons, Inc. a number of cartons containing colored oleomargarine on which the word 'oleomargarine' or 'margarine' or a statement of the ingredients contained therein did not appear on the label in violation of 21 U.S.C. §§ 331(m), 333(b), 347(b)(3), and 18 U.S.C. § 2.

"Count II of the indictment was dismissed during the course of the trial on the Government's own motion. At the close of all the evidence decision was reserved on a motion by defendant for a judgment of acquittal on the remaining two counts.

"The Government's version of the facts, as adduced at the trial, is as follows:

"In November 1950 Abramson visited Alpert at his place of business, The Temptee Butter and Egg Company, 514 Westchester Avenue, Bronx. Alpert told Abramson that he needed capital to finance his business operations and Abramson indicated that he knew of someone who could provide the necessary funds.

"Abramson then went to see defendant Rutstein at his place of business, the Exchange Place Realty Company, 35 Montgomery Street, Jersey City, and talked to him about financing Alpert's business. Rutstein indicated that he was interested and inspected the premises at 514 Westchester Avenue, together with Schuster. Several more meetings between the defendant, Alpert, Schuster and Abramson were held at the Jersey City and Bronx premises, with the result that defendant Rutstein decided that Exchange Place Realty would invest \$12,000 in Alpert's business.

"At one of the meetings between defendant Rutstein and the alleged co-conspirators, he is said to have stated that it was impossible to make a profit by selling butter and eggs and that they should produce a mixture of oleomargarine and butter which would be sold as butter. The others agreed, and it was decided that a corporation would be formed for that purpose.

"The group met at the offices of Alpert's attorneys, and a corporation, Temptee Food Co., Inc., was organized. Alpert was named president, and Schuster secretary-treasurer.

"A bank account was opened at the Modern Industrial Bank, in the Bronx, and the plan was put into effect. The four met regularly at the Westchester Avenue premises for the purpose of blending butter with oleo. A Hobart mixer was used for the blending process, salt and artificial coloring were added, and the resulting substance was then placed in a freezer. Defendant Rutstein was present at most of these sessions, gave instructions as to how the mixing should be accomplished and was the one in charge of the operations.

¹ 21 U.S.C. § 347(b) reads as follows:

"(b) Labeling and packaging requirements.

No person shall sell, or offer for sale, colored oleomargarine or colored margarine unless—

(1) such oleomargarine or margarine is packaged.

(2) the net weight of the contents of any package sold in a retail establishment is one pound or less.

(3) there appears on the label of the package (A) the word 'oleomargarine' or 'margarine' in type or lettering at least as large as any other type or lettering on such label, and (B) a full and accurate statement of all the ingredients contained in such oleomargarine or margarine, and

(4) each part of the contents of the package is contained in a wrapper which bears the word 'oleomargarine' or 'margarine' in type or lettering not smaller than 20-point type."

"The actual sale of the product was handled by Abramson. The mixture, in bulk sixty-four pound cubes, was sold to H. Wool & Sons, Inc., a wholesaler or jobber of dairy products.

"Each sixty-four pound cube was wrapped in parchment and placed in a separate carton. The word 'margarine' or 'oleomargarine' did not appear on the cartons or the parchment wrappings and neither bore any description of their contents.

"Defendant Rutstein denied that he participated in any illegal transactions. He testified that he was in the real estate business and that his only interest in the 514 Westchester Avenue premises was as a real estate investment. He denied knowledge that any mixing of butter and oleomargarine had taken place there and stated that he had nothing whatsoever to do with the production, packaging or sale of the product and had never read the label on the cartons.

"It is unnecessary for me to resolve the issues of fact raised at the trial for my ruling on the defendant's motion for a judgment of acquittal will dispose of the case. In making such ruling I shall assume that the Government's evidence is true and shall consider only whether that evidence is sufficient in law to sustain the charge contained in the indictment.

"Defendant's principal contention is that the Oleomargarine Act of 1950 applies only to sales by retailers to the consuming public and has no application whatsoever to sales made by a producer or manufacturer to a wholesaler or jobber such as are involved here. Defendant therefore asserts that none of the acts with which he is charged were in violation of the statute on which the indictment is based.

"An analysis of 21 U.S.C. § 347(b) supports the defendant's position. The statute forbids the sale or offering for sale of colored oleomargarine unless (1) it is packaged; (2) 'the net weight of the contents of any package *sold in a retail establishment* is one pound or less; (3) 'there appears on the label of *the package*' the word 'oleomargarine' or 'margarine' in type or lettering at least as large as any other type or lettering on the label, and a full and accurate statement of all the ingredients; and (4) 'each part of the contents of *the package* is contained in a wrapper which bears the word 'oleomargarine' or 'margarine' in type or lettering not smaller than 20-point type."

"The Government contends that the words 'the package,' as used in subdivisions 3 and 4 of Section 347(b), include all packages of margarine sold or offered for sale whether in retail establishments or in the wholesale trade and regardless of size. It says, therefore, that all the requirements as to labeling and stating the ingredients apply to wholesale sales in 64 pound cubes, such as occurred here, as well as to the small packages of one pound or less which are the largest that can be sold in a retail establishment.

"It is plain to me, however, that the words 'the package' in subdivisions 3 and 4 refer only to the package mentioned in the previous subdivision 2—that is to say 'any package' of one pound or less which can be sold in a retail establishment to the consuming public. Subdivision 2 is the first place in Section 347(b) where the word 'package' is used and the reference there is to a specific kind of package only.

"Even without the necessarily strict construction which must be given to this criminal statute (United States v. Wiltberger, 5 Wheat. 76; Yates v. United States, 354 U.S. 298) a fair reading of the statute could lead to no other result than that '*the package*' used in subdivisions 3 and 4 refers only to any package of one pound or less sold in a retail establishment just referred to in subdivision 2.

"This conclusion is bolstered by the language of subdivision 4 of § 347(b). The requirement that each *part* of the contents of *the package* must be 'contained in a wrapper which bears the word "oleomargarine" or "margarine" in type or lettering not smaller than 20-point type' is quite inappropriate on a 64 pound wholesale carton of the type alleged to have been used in the transactions at bar. Such 20-point type, while it would direct the attention of the consuming public to the fact that a one pound or quarter pound package contained oleomargarine, would be so small as to be easily overlooked on a 64 pound wholesale carton, and it is highly unlikely that such a small sized type would have been prescribed for this purpose.

"Any doubt that this is the correct interpretation of the statute is resolved by reference to its legislative history. A review of such history makes it apparent that the Act was intended only to cover oleomargarine packaged for retail sale and was not intended to cover wholesale transactions such as those here.

"The Reports of the Congressional Committees concerned with the Oleomargarine Act of 1950, and the debates on the Act, indicate that a main object of the statute was the repeal of burdensome taxes which had been imposed originally by the Act of August 2, 1886, 24 Stat. 209,² on the manufacture, distribution and sale of oleomargarine.³ During the lengthy Congressional debates it became increasingly clear that both the proponents and the opponents of the measure were in agreement that the oleomargarine taxes should be repealed.⁴ The battleground upon which the extended oleomargarine fight in Congress was waged was not upon the tax repeal question at all but rather as to the best methods of protecting consumers from the danger that oleomargarine, because of its similarity to butter, might be misrepresented as butter to unwary consumers.⁵

"The regulatory provisions of the Oleomargarine Act of 1950 were revised several times during the pendency of the bill before the Congress.

"The bill as originally passed by the House (H.R. 2023) did not contain any reference to 'the sale or offering for sale' of colored oleomargarine. Instead the bill was concerned with the 'serving' of colored oleomargarine in public eating places and prescribed certain rigid requirements as to notice and labeling which restaurant owners were required to observe before they could serve oleomargarine to their patrons.⁶ Among the requirements of the original bill were that a notice that oleomargarine was served had to be posted at a prominent place in the restaurant or printed on the menu, and each separate serving had to contain an identifying label, or, in the alternative, was to be served in triangular shape.⁷ The Senate Finance Committee reported the House bill favorably and recommended only relatively minor amendments.⁸

"While H.R. 2023 was under consideration by the Senate an amendment was offered by some twenty-five Senators (The Gillette-Wiley amendment) which would have prohibited 'the manufacture, transportation, handling, possession, sale, use, or serving of yellow oleomargarine in commerce, or after shipment in commerce * * *.'⁹ The practical effect of this amendment, of course, would have been to prevent the oleomargarine producers from coloring their product yellow.

"According to its sponsors the object of the Gillette-Wiley amendment was to prevent the fraudulent selling or serving of oleomargarine as butter.¹⁰ The merits of this amendment were debated at great length and many arguments were advanced both for permitting and prohibiting the use of the color yellow in the manufacture of oleomargarine before the amendment was finally defeated. As is readily apparent from a reading of the Congressional debates, by far the greater part of the proceedings in the Senate were addressed to the merits of the Gillette-Wiley amendment.

"After the defeat of the Gillette-Wiley amendment¹¹ another amendment to H.R. 2023 was offered by Senator Frear.¹² The Frear amendment, which used the phrase 'sale or offering for sale' for the first time, is important in that it suggested some of the relevant language which was to find its way

² See, also, Act of May 9, 1902, 32 Stat. 193; Act of March 4, 1931, 46 Stat. 1549.

³ H.R. Rep. No. 277, 1950 U.S. Code Congr. Svs. 1968; S. Rep. No. 309, 1950 U.S. Code Congr. Svs. 1970; 96 Congr. Rec. 47, 81st Cong., 2nd Sess., 1950.

⁴ See § 6 of The Gillette-Wiley Amendment to H.R. 2023 at 96 Congr. Rec. 46, the remarks of Sen. Gillette at 96 Congr. Rec. 73, 74, and of Sen. Humphrey at 96 Congr. Rec. 257, 81st Cong., 2nd Sess. 1950.

⁵ See debates commencing at 96 Congr. Rec. 44, 73, 116, 257, 277, 294, 301, 331, 343, 378, 382, 396, 439, 463, 508, 544, 559, 1381, 2971, 3016, 81st Cong., 2nd Sess. 1950.

⁶ 96 Congr. Rec. 45, 81st Cong., 2nd Sess. 1950.

⁷ 96 Congr. Rec. 45, 81st Cong., 2nd Sess. 1950.

⁸ S. Rep. No. 309, 1950 U.S. Code Congr. Svs. 1970.

⁹ 96 Congr. Rec. 46, 81st Cong., 2nd Sess. 1950.

¹⁰ 96 Congr. Rec. 73, 74, 81st Cong., 2nd Sess. 1950.

¹¹ 96 Congr. Rec. 455, 81st Cong., 2nd Sess. 1950.

¹² 96 Congr. Rec. 463, 81st Cong., 2nd Sess. 1950.

"That is for the purpose of preventing the placing of four unlabeled quarter-pound packages of oleomargarine inside a package which is labeled, with the result that the smaller portions could be taken out and sold without having any identification on them."

96 Congr. Rec. 3025.

"The statement of the House Managers¹⁸ as to the purpose of 21 U.S.C. § 374(b) (3) (sic) reads as follows:

These special labeling and packaging provisions, which are in addition to other labeling and packaging provisions of the Federal Food, Drug, and Cosmetic Act, are intended to provide assurance *that the consumer purchasing oleomargarine in retail establishments* will be fully informed as to the contents of the package. * * * [Emphasis added.]

"Representative Andresen, an opponent of the bill, and one of the House conferees, in explaining the provisions decided upon at the conference, stated that '*on the label of the 1-pound package in which oleomargarine is sold at retail* the label must contain a statement of every ingredient. * * *' Representative Andresen went on to say that

* * * One reason why we insisted they put each one of these oils to be shown on the label was because of the fact a good many people are allergic to different oils and they should therefore know what the ingredients in oleomargarine are; * * *.¹⁹

"Senator George, a leading supporter of the bill, and a Senate member of the Conference Committee, explained the provisions in question as follows:

I read further:

(3) there appears on the label of the package (A) the word 'oleomargarine' or 'margarine' in type or lettering at least as large as any other type or lettering on such label, and (B) a full and accurate statement of all the ingredients contained in such oleomargarine or margarine.

The conference committee reached the conclusion that the real purpose of the amendment was to prevent fraud from being practiced upon the consuming public, * * * and, therefore, it was deemed by the conference committee, on thorough consideration, that if there appeared on the *label of each of the packages sold in retail establishments* which could not contain more than 1 pound net, the word 'oleomargarine' or 'margarine' in type or lettering at least as large as any other type or lettering on such label—that is to say, if the words were printed on the package as conspicuously as was any other printing appearing thereon, and that if a full and accurate statement of all the ingredients contained in such oleomargarine or margarine was also printed upon the package, that was adequate protection to the public.

A further provision of the amendment agreed upon was that each part or parts of the contents *of the retail package* is contained in a wrapper which bears the word 'oleomargarine' or 'margarine' in type or lettering not smaller than 20-point type. * * *

It is respectfully submitted that this amended provision of the act, as agreed upon in conference, affords as ample and thorough protection to the general public *buying in retail establishments* as would the original provision contained in the amendment offered by the Senator from Delaware. * * * [This refers to the Frear amendment which required triangular shaping and had been adopted by the Senate but rejected by the conference].²⁰

"The Congressional history of the Oleomargarine Act of 1950 fully confirms the conclusion that sales by producers of oleomargarine to jobbers or wholesalers in large packages are not encompassed within the proscriptions of 21 U.S.C. § 347(b).

"On the trial there was no evidence that the object of the alleged conspiracy and the acts alleged to constitute the substantive offense were other than the wholesale sale of the mixture in 64 pound cubes packed in cartons to H. Wool & Sons who were wholesalers or jobbers. There was not a scintilla of evidence that defendant, or his alleged co-conspirators, sold or ever planned or attempted any direct sale to consumers, or even retail dealers, in retail packages of one pound or less.

¹⁸ 96 Congr. Rec. 2971.

¹⁹ 96 Congr. Rec. 2976.

²⁰ 96 Congr. Rec. 3017.

"However reprehensible or fraudulent the conduct of Rutstein and his associates may have been, the evidence adduced at the trial was wholly insufficient to sustain the charges of violation of 21 U.S.C. §§ 331(m), 333(b) and 347(b), or of conspiracy to violate these statutes.

"Defendant's motion for a judgment of acquittal is granted as to both remaining counts."

SPICES, FLAVORS, AND SEASONING MATERIALS

25991. Anise seed. (F.D.C. No. 43469. S. No. 22-532 P.)

QUANTITY: 10 200-lb. drums at Omaha, Nebr.

SHIPPED: 9-4-59, from Chicago, Ill., by Kearns & Smith Spice Co.

LABEL IN PART: "K and S * * * Whole Recleaned Anise * * * Packed by Kearns & Smith Spice Company * * * Chicago 24, Illinois."

LIBELED: 10-8-59, Dist. Nebr.

CHARGE: 402(a) (3)—contained mouse excreta pellets when shipped.

DISPOSITION: 10-26-59. Default—destruction.

25992. Frozen green chili. (F.D.C. No. 43029. S. No. 58-835 P.)

QUANTITY: 30 cases, 12 ½-lb. ctns. each, at Denver, Colo.

SHIPPED: 4-21-59, from Albuquerque, N. Mex., by Best Mexican Foods.

LABEL IN PART: (Ctn.) "Burrito Brand Baca's Frozen Green Chili Prepared & Packed By Best Mexican Foods, 521 Rio Grande Blvd., N.W., Albuquerque, N.M."

RESULTS OF INVESTIGATION: Examination showed the article to be short weight.

LIBELED: 5-26-59, Dist. Colo.

CHARGE: 403(e) (2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents since the label statement "Net Weight ½ Lb." was inaccurate; and 403(f)—the statement of the quantity of contents was not prominently placed on the article with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use, since it was illegible.

DISPOSITION: 7-6-59. Default—delivered to a Federal institution.

25993. Monosodium glutamate. (F.D.C. No. 43521. S. No. 64-211 P.)

QUANTITY: 1 100-lb. drum at Providence, R.I.

SHIPPED: 6-26-59, from Boston, Mass., by Packer's Laboratory, Inc.

LABEL IN PART: "99% Monosodium Glutamate ZEST B 42 STB STD Mfd. by A. E. Staley Mfg. Co., Decatur, Illinois."

RESULTS OF INVESTIGATION: Examination showed that the article contained 4.9 percent salt.

LIBELED: On or about 9-9-59, Dist. R.I.

CHARGE: 402(b) (2)—when shipped, salt had been substituted in part for glutamate; and 402(b) (4)—salt had been added to the article so as to increase its bulk or weight and reduce its quality or strength.

DISPOSITION: 10-9-59. Default—delivered to charitable institutions.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE

25994. Vitamin capsules. (F.D.C. No. 43408. S. No. 55-941 P.)

QUANTITY: 170 100-capsule btls. at Kansas City, Mo.

SHIPPED: 11-15-57, from Long Island City, N.Y.

RESULTS OF INVESTIGATION: Examination showed that the article contained approximately 65 percent of the declared amount of vitamin A, approximately 70 percent of the declared amount of vitamin B₁, and approximately 50 percent of the declared amount of vitamin B₁₂.

LIBELED: On or about 7-29-59, W. Dist. Mo.

CHARGE: 402(b) (1)—while held for sale, the valuable constituents, vitamin A, vitamin B₁, and vitamin B₁₂, had been in part omitted or abstracted from the article; and 403(a)—the label statement "Each Capsule Contains: Vitamin A 1000 Units * * * Vitamin B₁ * * * 4.0 mgm. * * * Vitamin B₁₂ USP 2 mcgm." was false and misleading.

DISPOSITION: 9-16-59. Default—destruction.

25995. Vitamin capsules. (F.D.C. No. 43355. S. No. 60-633 P.)

QUANTITY: 29 boxes, each containing a 90-capsule btl., and attached thereto, a small box containing 7 capsules, at Seattle, Wash.

SHIPPED: 2-10-58, from Los Angeles, Calif.

RESULTS OF INVESTIGATION: Examination showed that the article contained approximately 81 percent of the declared amount of vitamin B₁.

LIBELED: On or about 8-24-59, W. Dist. Wash.

CHARGE: 402(b) (1)—while held for sale, the valuable constituent, vitamin B₁, had been in part omitted or abstracted from the article; and 403(a)—the label statement "Vitamin B-1 * * * 15 mg." was false and misleading.

DISPOSITION: 10-26-59. Default—destruction.

25996. Vitamin tablets. (F.D.C. No. 43347. S. No. 59-784 P.)

QUANTITY: 7 cases, containing 6 cartons of 14 individually cartoned btls., and 19 btls., at Baltimore, Md.

SHIPPED: 1-22-59, from Clifton, N.J., by Chas. Pfizer & Co., Inc.

LABEL IN PART: (Btl. & ctn.) "30 Tablets KIDZ Appetite Builders Sharpens Appetites Promotes Growth * * * A unique new combination of vitamins plus essential L-lysine, a protein building block which may be deficient in your child's diet * * * Each tablet contains: Vitamin B-12 20 mcg. Vitamin B-6 3 mg. Vitamin B-1 10 mg Vitamin C (as sodium sorbate) 25 mg. L-lysine 15 mg. * * * Chas. Pfizer & Co., Inc., N.Y., N.Y."

LIBELED: On or about 8-18-59, Dist. Md.

CHARGE: 403(a)—when shipped, the labeling of the article contained false and misleading representations that the article would improve the appetite of children and adults; promote growth; improve metabolism of children; and make children grow up to be big, strong, healthy, and beautiful; and that the article would supply a significant amount of the essential amino acid L-lysine, a protein building block, to build sound muscles and tissues.

DISPOSITION: 9-17-59. Default—delivered to charitable institutions.

25997. Vitamin tablets. (F.D.C. No. 43416. S. No. 61-413 P.)

QUANTITY: 67 200-tablet btls. and 23 500-tablet btls. at Detroit, Mich.

SHIPPED: 9-17-58, from San Diego, Calif.

RESULTS OF INVESTIGATION: Examination showed that the article contained approximately 50 percent of the labeled amount of vitamin B₁.

LIBELED: On or about 8-10-59, E. Dist. Mich.

CHARGE: 402(b) (1)—while held for sale, a valuable constituent, vitamin B₁, had been in part omitted or abstracted from the article; and 403(a)—the label statement "Nine Tablets * * * Will Supply * * * Vitamin B₁ (Thiamine) 10 mg." was false and misleading.

DISPOSITION: 9-23-59. Default—destruction.

25998. Vitamin tablets. (F.D.C. No. 43316. S. No. 54-790 P.)

QUANTITY: 40 180-tablet btls. at High Bridge, N.J.

SHIPPED: 3-13-59, from Los Angeles, Calif.

LIBELED: 7-27-59, Dist. N.J.

CHARGE: 402(b) (1)—while held for sale, the valuable constituent, vitamin B₁₂, had been in part omitted or abstracted from the article; and 403(a)—the label statement "6 Tablets Daily Will Supply * * * Vitamin B₁₂ * * * 10 mcg." was false and misleading as applied to a product which contained approximately 50 percent of the labeled amount of vitamin B₁₂.

DISPOSITION: 9-15-59. Default—destruction.

MISCELLANEOUS FOODS

25999. Japanese seaweed. (F.D.C. No. 42603. S. No. 40-704 P.)

QUANTITY: 92 bundles, 10 individually wrapped sheets each, at San Francisco, Calif.

SHIPPED: 10-10-57, from Seoul, Korea, by Namsun Trading Co., Ltd.

LABEL IN PART: (Sheets) "Bright Light Brand Japanese Seaweed Packed for Lee's Agency San Francisco, Calif."

LIBELED: 1-9-59, N. Dist. Calif.

CHARGE: 402(a) (3)—contained rodent hairs when shipped.

DISPOSITION: 2-3-59. Default—destruction.

26000. Potato salad. (F.D.C. No. 42412. S. No. 35-318 P.)

INFORMATION FILED: 1-28-59, E. Dist. Pa., against Leyrer's Food Products Co., a corporation, Philadelphia, Pa.

SHIPPED: 7-14-58, from Pennsylvania to New Jersey.

LABEL IN PART: (Ctn.) "NET WT. 1 LB. Leyrer's POTATO SALAD MFD. BY LEYRER'S FOOD PRODUCTS CO. PHILA. 23, PA."

CHARGE: 402(a) (3)—contained insect fragments and decomposed potato material; and 402(a) (4)—prepared under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 3-24-59. \$1,000 fine.

INDEX TO NOTICES OF JUDGMENT F.N.J. NOS. 25901-26000

PRODUCTS

	N.J. No.		N.J. No.
Anise seed_____	25991	Nuts_____	25979-25987
Barley_____	25922	Oils and fats_____	25988, 25989
Batter mix_____	25902	Oleomargarine_____	² 25990
Blueberries, frozen_____	25970, 25971	Olive oil_____	25989
Buffalo fish, frozen_____	25965	Peaches, canned_____	25969
Butter_____	25951-25954	Peanuts, shelled_____	25981-25985
Candy. <i>See</i> Confectionery.		Spanish_____	25981
Cane sirup_____	25950	unshelled_____	25986, 25987
Caramels_____	25947	Peas, dried_____	25974
Carp, frozen, round_____	25965	Pecans, shelled_____	25980
Cashew nuts, shelled_____	25979	Perch fillets, frozen_____	25961
Catsup, tomato_____	25976	Potato salad_____	26000
Cereals and cereal products_____	25901-25942	Ravioli, cheese, in sauce_____	25918
Chili, green, frozen_____	25992	Ribbon cane sirup_____	25949
Chocolate-covered mints_____	25944	Rice _____	¹ 25919-25921, 25975, 25985
Cocoa powder_____	25943	Seaweed, Japanese_____	25999
Confectionery_____	25944-25948	Shellfish. <i>See</i> Fish and shellfish.	
Crabmeat, canned_____	¹ 25968	Shrimp, frozen_____	25960
Dairy products_____	25951-25955	breaded_____	25967
Fats. <i>See</i> Oils and fats.		Sirup, cane_____	25950
Fish and shellfish_____	25956-25968	ribbon _____	25949
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Flour_____	25901-25914	Soybeans, dried_____	25975
Fruits and vegetables_____	25969-25978	Spices, flavors, and seasoning materials_____	25991-25993
fruit, canned_____	25969	Strawberries, frozen_____	25972, 25973
frozen_____	25970-25973	Tomato catsup_____	25976
tomato products_____	25976-25978	paste _____	25977
vegetables_____	25974, 25975	puree _____	25978
Glutamate, monosodium_____	25993	Vegetables. <i>See</i> Fruits and vegetables.	
Halibut, frozen_____	25960	Vitamin, mineral, and other products of special dietary significance_____	25994-25998
Lobster tails, frozen_____	25966	Whale meat, frozen_____	25963
Macaroni and noodle products_____	25915-25918	Wheat_____	¹ ³ 25923-25942
Milk, dry, nonfat_____	25955	Whitefish, fresh_____	25956
Mints, chocolate-covered_____	25944	dressed_____	25957, 25958
candy_____	25948	frozen_____	25959, 25960
Mix, batter_____	25902	Whiting, dressed_____	25962
Molasses, sorghum_____	25949	fresh, frozen_____	25964
Monosodium glutamate_____	25993		
Nonfat dry milk_____	25955		
Noodles. <i>See</i> Macaroni and noodle products.			

¹ (25919, 25923, 25968) Injunction issued.² (25990) Prosecution contested. Contains opinion of the court.³ (25929) Suit for forfeiture of bond. Contains a decree of the court.

SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS

	N.J. No.		N.J. No.
Alabama Georgia Syrup Co.:		Clark Fisheries:	
cane sirup-----	25950	dressed whitefish-----	25957
Alaga Syrup Co.:		College Inn Corp.:	
cane sirup-----	25950	tomato puree-----	25978
Allen Foods, Inc.:		College Inn Food Products Corp.	
shelled peanuts and rice-----	25985	See College Inn Corp.	
American Home Foods, Inc.:		Comet Rice Mills:	
cheese ravioli in sauce-----	25918	rice-----	25920
Ark-Homa Farms Frozen Foods,		Earl's Candy Co.:	
Inc.:		candy bars-----	25946
frozen strawberries-----	25972	Euclid Candy Co., Inc.:	
Atherton Grain Co.:		chocolate-covered mints-----	25944
wheat-----	25930	Exira Creamery Co.:	
Bailey, B. W.:		nonfat dry milk-----	25955
canned crabmeat----- ¹	25968	Farm Bureau Cooperative:	
Berkshire Foods, Inc.:		wheat-----	25927
butter-----	25951	Farmers Cooperative Elevator:	
Best Mexican Foods:		wheat-----	25934
frozen green chili-----	25992	Farmers Elevator Co.:	
Bimm, E. B.:		wheat-----	25926
flour and batter mix-----	25902	Flavour Candy Co.:	
Birdsey Flour & Feed Mills:		candy mints-----	25948
flour-----	25913	Fritsch, H. B.:	
Bloom, M. L., Sr.:		dried peas-----	25974
wheat----- ¹	25923	General Mills, Inc.:	
Boats. See Little Flower, Mari-		wheat-----	25933
anna II, and Serafina II.		Grant County Farm Bureau Co-	
Bowman, Dallas:		operative:	
butter-----	25952	wheat-----	25940
Braun, J. F., & Sons:		Greeley Elevator Co.:	
cocoa powder-----	25943	wheat-----	25941
Brecht Candy Co.:		Green, M. S.:	
caramels-----	25947	rice----- ¹	25919
Bruzia, Raffineria:		Green, M. D., Rice Milling Co.:	
olive oil-----	25989	rice----- ¹	25919
Burlington Creamery Co.:		Harding Creamery Co.:	
butter-----	25951	butter-----	25954
Burnap, I. M., & Co.:		Hill, Lew, Grain Co., Inc.:	
flour-----	25907	wheat-----	25942
Canadian Fish Producers, Ltd.:		Hulman & Co.:	
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Cash Feed Store:		canned crabmeat----- ¹	25968
flour-----	25911	Japan Export Frozen Marine	
Christians, H. C., Co.:		Products Inspection Corp.:	
butter-----	25951	frozen whale meat-----	25963
Clark County Farmers Elevator		Johnstone, P. C.:	
Co.:		dried peas-----	25974
barley-----	25922		

¹ (25919, 25923, 25968) Injunction issued.

	N.J. No.		N.J. No.
Jones Canning Co.:		Nova Scotia Blueberry Exchange	
canned peaches-----	25969	Co.:	
Karner Bros:		frozen blueberries-----	25970
wheat-----	25936	Occident Elevator Co.:	
Kearns & Smith Spice Co.:		wheat-----	25928, 25937, 25939
anise seed-----	25991	Osborne, C. R.:	
Kelley Canning Co.:		rice-----	¹ 25919
frozen strawberries-----	25973	Packer's Laboratory, Inc.:	
Kincaid Wholesale Co.:		monosodium glutamate-----	25993
flour-----	25905	Parman, Floyd, Sr.:	
Kootenai Grain Co.:		butter-----	25952
wheat-----	25935	Peak Nut Co.:	
Laurel Grocery Co.:		shelled peanuts-----	25984
flour-----	25906	Peerless Foods, Inc.:	
Lee's Agency:		flour and batter mix-----	25902
Japanese seaweed-----	25999	Pence, J. K.:	
Leyrer's Food Products Co.:		dried peas-----	25974
potato salad-----	26000	Pfizer, Chas., & Co., Inc.:	
Lindsey Warehouse Co.:		vitamin tablets-----	25996
dried soybeans and rice-----	25975	Progressive Fish Wharf, Inc.:	
Little Flower (boat):		frozen fresh whiting-----	25964
dressed whiting-----	25962	Redi Food Co., Inc.:	
Livingston, W. E., & Sons:		frozen breaded shrimp-----	25967
shelled pecans-----	25980	Rugby Milling Co.:	
Lott, Floyd E., & Sons:		wheat-----	25938
wheat-----	25932	Rutstein, I. B.:	
Lutz, F. C.:		oleomargarine-----	² 25990
butter-----	25952	San Giorgio Macaroni, Inc.:	
Lutz, Marlin:		egg noodles and macaroni	
butter-----	25952	products -----	25915
Madsen, A. O.:		Sassone Wholesale Groceries, Inc.:	
nonfat dry milk-----	25955	table and cooking oils-----	25988
Marianna II (boat):		Schuster, Leo:	
frozen ocean perch fillets-----	25961	oleomargarine -----	² 25990
McAfee Candy Co., Inc.:		Sea Crest Crab Co. See Jackson-	
candy-----	25945	ville Freezers, Inc.	
Montana Flour Mills Co.:		Semple Co.:	
flour-----	25909	flour -----	25904
Mull, Charles L., & Sons:		Serafina II (boat):	
flour -----	25901	dressed whiting-----	25962
Namsun Trading Co., Ltd.:		Snider, I. I.:	
Japanese seaweed-----	25999	fresh whitefish-----	25956
National Food Sales:		Spokane Seed Co.:	
frozen whale meat-----	25963	dried peas-----	25974
Newark Edible Oil Co., Inc.:		Staley, A. E., Mfg. Co.:	
table and cooking oils-----	25988	monosodium glutamate-----	25993
Norris, Ivey:		Star Van & Storage Co.:	
sorghum molasses and ribbon		shelled peanuts-----	25982
cane sirup-----	25949		

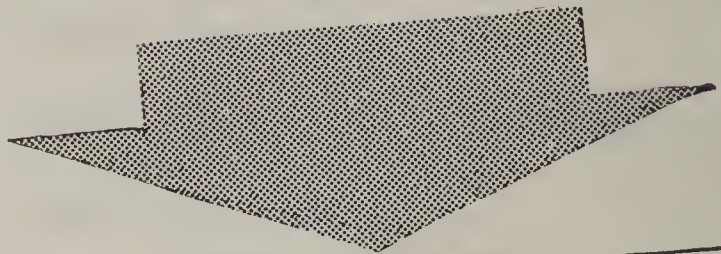
¹ (25919, 25923, 25968) Injunction issued.² (25990) Prosecution contested. Contains opinion of the court.

	N.J. No.		N.J. No.
Sunny State Distributing Co.:		Whiting Milk Co.:	
unshelled peanuts-----	25987	butter-----	25953
Terry Candy Co. See Euclid		Williams Grain Corp.:	
Candy Co., Inc.		wheat-----	25931
Uddo & Taormina Co.:		Wilson Canning Co.:	
tomato paste -----	25977	tomato catsup-----	25976
Uddo & Taormina Corp. of Cali-		Winn Dixie Stores, Inc.:	
fornia. See Uddo & Taor-		butter-----	25954
mina Co.		Wolch Nut & Candy Co.:	
United Co-Operative Farmers,		caramels-----	25947
Inc.:		Woldert Peanut Products Co.:	
frozen blueberries-----	25971	shelled peanuts-----	25981
Valley Products Co.:		York & Whitney Co.:	
flour -----	25914	frozen blueberries-----	25971
Viva-Stone Flour Mills, Inc.:			
flour -----	25910		

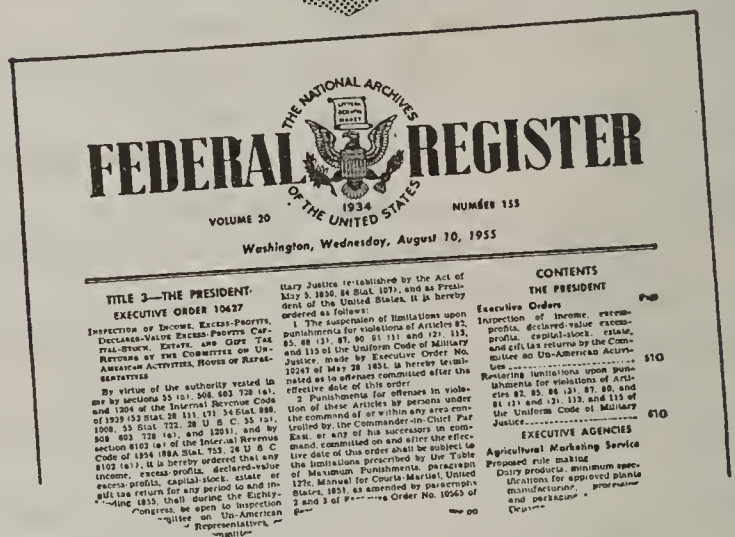
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U.S. Department of Health, Education, and Welfare

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

26001-26100

FOODS

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CURRENT SERIAL RECORD

JUN 7 - 1960

U. S. DEPARTMENT OF AGRICULTURE

The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were adulterated or misbranded within the meaning of the Act when introduced into and while in interstate commerce, or while held for sale after shipment in interstate commerce. These cases involve (1) seizure proceedings in which decrees of condemnation were entered by default, or by consent; (2) criminal proceedings which were terminated upon pleas of guilty or nolo contendere; and (3) an injunction proceeding terminated upon the entry of a permanent injunction by default or by consent. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the criminal and injunction proceedings are against the *firms* or *individuals* charged to be responsible for violations.

Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D.C., April 29, 1960.

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**SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN VIOLATIONS
REPORTED IN F.N.J. NOS. 26001-26100**

Adulteration, Section 402(a) (2), the article was a raw agricultural commodity and contained a pesticide chemical which was unsafe within the meaning of Section 408(a); Section 402(a) (3), the article consisted in part of a filthy or decomposed substance, or it was otherwise unfit for food; Section 402(a) (4), the article had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth; Section 402(a) (5), the article was in whole or in part the product of a diseased animal; Section 402(b) (1), a valuable constituent had been in whole or in part omitted or abstracted from the article; Section 402(b) (2), a substance had been substituted wholly or in part for the article; Section 402(b) (4), a substance had been added to the article or mixed or packed therewith so as to make it appear better or of greater value than it was.

Misbranding, Section 403(a), the labeling of the article was false and misleading; Section 403(e) (2), the article was in package form and it failed to bear a label containing an accurate statement of the quality of contents in terms of weight; Section 403(g) (1), the article purported to be and was represented as a food for which a definition and standard of identity had been prescribed by regulations, and it failed to conform to such definition and standard; Section 403(i) (2), the article was not subject to the provisions of Section 403(g), and it was fabricated from two or more ingredients and its label failed to bear the common or usual name of each such ingredient; Section 403(j), the article purported to be and was represented for special dietary uses, and its label failed to bear such information concerning its vitamin, mineral, and other dietary properties as the Secretary has determined to be, and by regulation prescribed as, necessary in order fully to inform purchasers as to its value for such uses.

BEVERAGES AND BEVERAGE MATERIAL

26001. Carbonated beverages. (F.D.C. No. 43335. S. Nos. 63-861/6 P, 63-871/7 P.)

QUANTITY: 90 cases, 12 1-qt. btls. each, and 90 cases, 24 6-oz. btls. each, at Seekonk, Mass.

SHIPPED: 5-5-59, from Providence, R.I., by Elgin Sales Co., Inc.

LIBELED: 8-5-59, Dist. Mass.

CHARGE: 402(a) (3)—contained fungi and insects; and 402(a) (4)—prepared and packed under insanitary conditions.

DISPOSITION: 9-21-59. Default—destruction.

26002. Soluble coffee. (F.D.C. No. 43434. S. No. 53-545 P.)

QUANTITY: 45 cases, 24 1½-oz. jars each, at Los Angeles, Calif.

SHIPPED: 4-16-59 and 6-19-59, from Flushing, N.Y., by Spice Club Foods, Inc.

LABEL IN PART: (Jar) "Instant Mocha Coffee * * * Reese of California, Inc. * * * Los Angeles, Calif."

LIBELED: 9-1-59, S. Dist. Calif.

CHARGE: 402(b) (2)—when shipped, dextrose had been substituted in part for coffee; 403(a)—the name of the article, "Instant Mocha Coffee," was false and misleading as applied to the article which was a mixture of dextrose and coffee; and 403(i) (2)—the label failed to bear the common or usual name of each ingredient since dextrose was not declared.

DISPOSITION: 10-8-59. Default—delivered to a charitable institution.

CEREALS AND CEREAL PRODUCTS

BAKERY PRODUCTS

26003. Bread. (F.D.C. No. 42448. S. Nos. 17-280 P, 17-282/4 P.)

INFORMATION FILED: 3-19-59, W. Dist. Ky., against Kentucky Bakery, Inc., Henderson, Ky., and Frank R. Wolfe, president.

SHIPPED: 10-2-58, from Kentucky to Indiana.

LABEL IN PART: "Tender Krust Enriched Bread Kentucky Bakery Incorporated Henderson, Kentucky Net Weight 1¼ Lb." and "Wolfe's Tender Krust White Enriched Bread Kentucky Bakery Inc., Henderson, Kentucky Net Wt. 1¼ Lbs."

CHARGE: 402(a)(3)—contained insect fragments; and 402(a)(4)—prepared and packed under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 9-15-59. Each defendant fined \$1,000.

26004. Bread and rolls. (F.D.C. No. 43236. S. Nos. 5-070 P, 5-072/3 P.)

INFORMATION FILED: 8-31-59, N. Dist. W. Va., against Kingwood Baking Co., a partnership, Kingwood, W. Va., and Phillip Contic, Jr., and Richard Contic, partners in the partnership.

SHIPPED: 6-16-59, from West Virginia to Maryland.

LABEL IN PART: (Wrapper) "Enriched KAYE-B BREAD SLICED 15½ Oz. OR OVER," and (plastic bag) Kay-B ENRICHED SANDWICH BUNS WT. 6½ Ounces."

CHARGE: 402(a)(3)—contained insects and insect fragments; and 402(a)(4)—prepared under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 9-22-59. \$200 fine against each defendant.

FLOUR*

26005. Flour, rice, and shelled almonds. (F.D.C. No. 40839. S. Nos. 72-940/1 M, 72-943/5 M, 73-169/71 M.)

QUANTITY: 727 100-lb. bags of flour, 57 100-lb. bags of rice, and 23 25-lb. ctns. of almonds, at Denver, Colo., in possession of Knoebel Mercantile Co.

SHIPPED: Between 10-31-56 and 8-29-57, from Jonesboro and Carlisle, Ark.; Ogden, Utah; and Sacramento, Calif.

LIBELED: 10-28-57, Dist. Colo.

CHARGE: 402(a)(3)—contained (flour and rice) rodent urine, and (almonds) insects; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 11-13-57. Consent—claimed by Knoebel Mercantile Co. Segregated; 267 bags of flour and 10 bags of rice were denatured for use as animal feed, and the almonds were destroyed.

*See also No. 26032.

26006. Flour. (F.D.C. No. 42451. S. No. 50-104 P.)

INFORMATION FILED: 3-19-59, E. Dist Tenn., against James Fred Brown, t/a Brown Milling Co.

SHIPPED: 11-20-58, from Tennessee to Virginia.

LABEL IN PART: (Bag) "Briar-Rose Flour 25 Lbs. Bleached Manufactured By Brown Milling Co. Johnson City, Tenn."

CHARGE: 402(a)(3)—contained insect parts and rodent hair fragments; and 402(a)(4)—prepared and packed under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 9-23-59. \$100 fine.

26007. Flour. (F.D.C. No. 43398. S. No. 60-625 P.)

QUANTITY: 18 cases, 5 10-lb. bags each, at College Place, Wash.

SHIPPED: 5-26-59, from Lewistown, Mont., by Viva Stone Flour Mills, Inc.

LABEL IN PART: (Bag) "Viva Whole Wheat Stone Ground Flour Net Wt. 10 Lbs. * * * Viva Stone Flour Mills, Inc., Lewistown, Montana."

LIBELED: 7-22-59, E. Dist. Wash.

CHARGE: 402(a)(3)—contained insects, insect fragments, and rodent hairs; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 9-28-59. Default—destruction.

26008. Flour. (F.D.C. No. 43360. S. No. 68-230 P.)

QUANTITY: 25 bales, 10 5-lb. bags each, and 8 bales, 24 2-lb. bags each, at Millville, N.J., in possession of Bond Stores, Inc.

SHIPPED: 4-21-59, from Philadelphia, Pa.

LIBELED: 8-28-59, Dist. N.J.

CHARGE: 402(a)(3)—contained insects; 402(a)(4)—held under insanitary conditions.

DISPOSITION: 10-8-59. Default—destruction.

26009. Flour. (F.D.C. No. 42469. S. Nos. 29-730 P, 45-941 P.)

INFORMATION FILED: 7-15-59, E. Dist. La., against Consolidated Companies, Inc., t/a Louisiana Specialty Co., Baton Rouge, La., and Roland J. Louque, plant manager.

ALLEGED VIOLATION: Between 4-28-58 and 12-8-58, the defendants caused quantities of flour, while held for sale after shipment in interstate commerce, to be held in a building accessible to rodents and to be exposed to contamination by rodents, which acts resulted in the article being adulterated.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 10-12-59. Corporation fined \$1,500; individual fined \$500.

26010. Flour. (F.D.C. No. 43087. S. Nos. 29-152/3 P.)

INFORMATION FILED: 10-13-59, M. Dist. Ala., against Beeland Wholesale Co., Inc., Greenville, Ala., and John F. Steele, president.

ALLEGED VIOLATION: Between 10-3-58 and 10-21-58, the defendants caused a quantity of flour, while held for sale after shipment in interstate commerce,

to be held in a building that was accessible to rodents and to be exposed to contamination by rodents, which acts resulted in the articles being adulterated.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 10-21-59. Corporation fined \$500; individual placed on probation for 1 year.

26011. Flour. (F.D.C. No. 43477. S. Nos. 65-233/4 P.)

QUANTITY: 79 50-lb. bags and 70 25-lb. bags at Rock Springs, Wyo., in possession of Wyoming Distributing Co.

SHIPPED: 6-30-59 and 8-28-59, from Logan, Utah.

LIBELED: 10-15-59, Dist. Wyo.

CHARGE: 402(a)(3)—contained insects and rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 11-30-59. Default—destruction.

26012. Flour. (F.D.C. No. 43783. S. No. 53-983 P.)

QUANTITY: 219 25-lb. bags at Hope, Ark., in possession of Stephens Grocer Co.

SHIPPED: 8-7-59 and 9-12-59, from Buhler, Kans.

LIBELED: 10-28-59, W. Dist. Ark.

CHARGE: 402(a)(3)—contained rodent excreta pellets and rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 12-12-59. Default—delivered to a charitable institution for use as animal feed.

26013. Flour. (F.D.C. No. 43657. S. No. 73-004 P.)

QUANTITY: 26 100-lb. bags at Kearny, N.J., in possession of Lusitania Baking Co.

SHIPPED: 10-3-59, from Buffalo, N.Y.

LIBELED: 11-9-59, Dist. N.J.

CHARGE: 402(a)(3)—contained rodent urine and rodent excreta pellets; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 12-14-59. Default—destruction.

26014. Flour. (F.D.C. No. 43610. S. No. 60-190 P.)

QUANTITY: 74 bales, 5 10-lb. bags each, at Morgantown, W. Va.

SHIPPED: 8-1-59, from Detroit, Mich.

LIBELED: 10-20-59, N. Dist. W. Va.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 12-18-59. Default—delivered to a charitable institution for use as animal feed.

MACARONI AND NOODLE PRODUCTS

26015. Macaroni. (F.D.C. No. 40453. S. Nos. 53-443 M, 53-445 M.)

INFORMATION FILED: 12-19-57, S. Dist. Fla., against Delmonico Foods, Inc., of Florida, a corporation, Tampa, Fla.

SHIPPED: 2-26-57, from Florida to Alabama.

LABEL IN PART: (Pkg.) "ENRICHED DELMONICO MACARONI [or "ELBOW MACARONI"] NET WEIGHT 6 OUNCES DELMONICO FOODS, INC., OF FLORIDA TAMPA, FLORIDA."

CHARGE: 402(a)(3)—contained insect parts and rodent hair fragments; and 402(a)(4)—prepared and packed under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 10-22-59. \$1,000 fine.

26016. Egg noodles, macaroni, and spaghetti products. (F.D.C. No. 42409. S. Nos. 13-074 P, 13-081/3 P.)

INDICTMENT RETURNED: 4-21-59, N. Dist. Ill., against the Chicago Macaroni & Food Products Co., Inc., Chicago, Ill., and Joseph S. Matalone, president, and Reno Alghini, plant superintendent.

SHIPPED: Between 1-10-58 and 1-27-58, from Illinois to Michigan.

LABEL IN PART: "Net Wt. Full Pound Enriched CYRILLA Brand EGG NOODLES Made By Chicago Macaroni & Food Products Co. Chicago, Ill."; "Enriched CYRILLA Brand ELBOW Net Weight One Pound Manufactured by Chicago Macaroni & Food Products Co. Chicago, Illinois Enriched CYRILLA Macaroni Products"; Enriched CYRILLA Brand MOSTACCIOLI LISCI Net Weight One Pound Manufactured by Chicago Macaroni & Food Products Chicago, Illinois Enriched CYRILLA Macaroni Products"; and "Enriched CYRILLA Brand SPAGHETTI BUCATI Full Pound—16 oz. Net Weight Mfg. By Chicago Macaroni & Food Products Co.—Chicago, Illinois."

CHARGE: 402(a)(3)—the egg noodles contained insect fragments; 402(a)(4)—they had been prepared and packed under insanitary conditions; and 403(e)(2)—the articles, other than the egg noodles, failed to bear a label containing an accurate statement of the quantity of contents. The packages of the articles contained less than 1 lb. as represented.

PLEA: Guilty.

DISPOSITION: 11-6-59. \$1,000 fine, plus costs, against the defendants jointly.

26017. Macaroni and spaghetti products. (F.D.C. No. 43090. S. Nos. 9-993 P, 24-667 P, 32-553/4 P.)

INFORMATION FILED: 8-28-59, Dist. Mass., against Musolino LoConte Co., a corporation, Boston, Mass.

SHIPPED: Between 8-25-58 and 10-8-58, from Massachusetts to New York and California.

LABEL IN PART: (Pkg.) "SAN MARTIN 1 LB. NET WT. ASPARAGUS MACARONI DISTRIBUTED BY SAN MARTIN FOODS CO. BOSTON, MASS., and "SAN MARTIN 1 LB. NET ARTICHOKE SPAGHETTINI [or "ELBOWS" or "SPAGHETTI"] NO SALT ADDED DISTRIBUTED BY SAN MARTIN FOODS CO. BOSTON, MASS."

CHARGE: 402(a)(3)—contained insects and insect parts; 402(a)(4)—prepared under insanitary conditions; and 403(j)—the articles, other than the macaroni, purported to be and were represented as foods for special dietary use by reason of their use as a means of regulating the intake of sodium in dietary management, and the labels of the articles failed to bear, as required by regulations, a statement of the number of milligrams of sodium per 100 grams of each article and a statement of the number of milligrams of sodium in an average serving of each article.

PLEA: Guilty.

DISPOSITION: 9-11-59. \$500 fine.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS*

26018. Unpopped popcorn. (F.D.C. No. 42065. S. No. 15-093 P.)

QUANTITY: 834 cases, 24 10-oz. cans each, at Nashville, Tenn.

SHIPPED: On unknown dates, from Ridgeway, Ill., by Blevins Popcorn Co.

LABEL IN PART: "Pops-Rite Popcorn."

LIBELED: 7-24-58, M. Dist. Tenn.

CHARGE: 402(a)(3)—contained insects and insect parts when shipped.

DISPOSITION: 7-25-58. Consent—destruction.

26019. Unpopped popcorn. (F.D.C. No. 43645. S. No. 63-949 P.)

QUANTITY: 59 100-lb. bags at Manchester, N.H.

SHIPPED: 8-26-59, from Chicago, Ill.

LIBELED: 11-12-59, Dist. N.H.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 12-23-59. Default—delivered to a public institution for use as animal feed.

26020. Unpopped popcorn. (F.D.C. No. 43544. S. Nos. 3-329 P, 5-078/80 P.)

QUANTITY: 24 50-lb. bags, 100 cases, 12 2-lb. bags each, and 15 cases, 24 1-lb. bags each, at Bluefield, Va.

SHIPPED: Between 3-1-59 and 7-13-59, from North Fairfield and Delaware, Ohio, and Murray, Ky.

LIBELED: 9-23-59, W. Dist. Va.

CHARGE: 402(a)(3)—contained insects, insect fragments, insect excreta, and insect webbing while held for sale.

DISPOSITION: 11-17-59. Default—delivered to a public institution for use other than for human consumption.

26021. Unpopped popcorn and cake mix. (F.D.C. No. 43572. S. Nos. 76-222/5 P, 76-227/8 P.)

QUANTITY: 203 cases, 12 2-lb. bags each, and 20 cases, 5 5-lb. bags each, of popcorn, and 87 50-lb. bags of cake mix, at Memphis, Tenn.

SHIPPED: Between 11-23-57 and 5-27-59 (popcorn), from Cedar Rapids and Schaller, Iowa, and between 6-20-59 and 8-12-59 (cake mix), from Ellicott City, Md.

LIBELED: 10-5-59, W. Dist. Tenn.

CHARGE: 402(a)(3)—contained insects and insect parts while held for sale.

DISPOSITION: 11-10-59. Default—delivered to a public institution for use as animal feed.

26022. Rice. (F.D.C. No. 40061. S. No. 63-668 M.)

QUANTITY: 15 100-lb. bags at Ogden, Utah, in possession of Utah Wholesale Grocery Co.

*See also Nos. 26005, 26033.

LIBELED: 3-25-57, Dist. Utah.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 8-8-57. Default—delivered to a public institution for use as hog feed.

26023. Rice. (F.D.C. No. 43446. S. No. 48-818 P.)

QUANTITY: 21 100-lb. bags at Crows Landing, Calif., in possession of John F. Grisez Co.

SHIPPED: 11-20-58, from Sealy, Tex.

LIBELED: 9-22-59, N. Dist. Calif.

CHARGE: 402(a)(3)—contained insects, insect excreta, and rodent hairs; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 12-22-59. Default—destruction.

26024. Rice. (F.D.C. No. 43548. S. No. 63-941 P.)

QUANTITY: 181 100-lb. bags at New Bedford, Mass.

SHIPPED: 3-19-59, from Beaumont, Tex.

LIBELED: 9-18-59, Dist. Mass.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 10-30-59. Default—delivered to a public institution for use as animal feed.

26025. Rice. (F.D.C. No. 43561. S. Nos. 60-656/7 P.)

QUANTITY: 23 50-lb. bags and 192 100-lb. bags at Seattle, Wash., in possession of American Warehouse Co.

SHIPPED: 4-17-59 and 6-1-59, from Houston, Tex.

LIBELED: 9-28-59, W. Dist. Wash.

CHARGE: 402(a)(3)—contained insects and (192-bag lot) insect excreta; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 10-26-59. Consent—claimed by Blue Ribbon Rice Mills, Inc., Houston, Tex. Segregated; 25 lbs. denatured.

26026. Rice. (F.D.C. No. 43794. S. Nos. 71-406 P, 71-410 P.)

QUANTITY: 20 100-lb. bags at Columbus, Ohio, in possession of Columbus Terminal Warehouse Co.

SHIPPED: 8-18-59, from Stuttgart, Ark.

LIBELED: 11-3-59, S. Dist. Ohio.

CHARGE: 402(a)(3)—contained insects and rodent excreta pellets; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 11-27-59. Default—delivered to a public institution for use as animal feed.

26027. Wheat. (F.D.C. No. 43395. S. No. 49-550 P.)

QUANTITY: 120,000 lbs. at Spokane, Wash.

SHIPPED: 7-3-59, from Molt, Mont., by Molt Farmers Elevator Co.

LIBELED: 7-14-59, E. Dist. Wash.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 7-22-59. Consent—claimed by Farmers Union Grain Terminal Association, Spokane, Wash. Segregated; 13,160 lbs. converted into animal feed.

26028. Wheat. (F.D.C. No. 43409. S. No. 49-636 P.)

QUANTITY: 125,400 lbs. at Malden, Wash.

SHIPPED: 6-30-59, from Baker, Mont., by Equity Cooperative Association.

LIBELED: 7-27-59, E. Dist. Wash.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 7-31-59. Consent—claimed by Farmers Union Grain Terminal Association, St. Paul, Minn. Segregated; 18,860 lbs. converted into animal feed.

26029. Wheat. (F.D.C. No. 43782. S. No. 83-464 P.)

QUANTITY: 120,000 lbs. at Kansas City, Kans.

SHIPPED: 10-19-59, from Kansas Falls, Kans., to Kansas City, Mo., and from there to Kansas City, Kans., by John (or Mayme) Wahle.

LIBELED: 10-28-59, Dist. Kans.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 11-12-59. Consent—claimed by John and Mayme Wahle, Kansas Falls, Kans. Segregated; 2,550 lbs. denatured.

26030. Batter mix and breeding mix (2 seizure actions). (F.D.C. Nos. 43119 and 43142. S. Nos. 48-088 P, 48-091/3 P, 48-231/4 P.)

QUANTITY: 22 225-lb. drums, and 7 50-lb. bags, of batter mix; and 32 100-lb. bags, and 24 225-lb. drums, of breeding mix; at Boston, Mass., in possession of Kelso Warehouses, Inc.

SHIPPED: Prior to 1958, from Chicago, Ill.

LIBELED: 5-6-59 and 5-7-59, Dist. Mass.

CHARGE: 402(a)(3)—contained insects, insect larvae, insect webbing and excreta; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 6-29-59. Default—destruction.

26031. Biscuit mix and corn muffin mix. (F.D.C. No. 43336. S. Nos. 80-084 P, 80-086 P.)

QUANTITY: 318 cases, 12 2-lb. 8-oz. pkgs. each, of biscuit mix; and 148 cases, 24 8½-oz. pkgs. each, of corn muffin mix; at Portland, Maine.

SHIPPED: 7-2-59, from Chelsea, Mich., by Chelsea Milling Co.

LABEL IN PART: (Pkg.) "Jiffy Biscuit Mix [or "Corn Muffin Mix"] * * * Chelsea Milling Company, Chelsea, Mich."

LIBELED: 8-10-59, Dist. Maine.

CHARGE: 402(a)(3)—both articles contained insect fragments and the corn muffin mix contained rodent hair fragments; and 402(a)(4)—both articles prepared and packed under insanitary conditions.

DISPOSITION: 8-24-59. Default—destruction.

26032. Rye meal, flour, and roll mix. (F.D.C. No. 43065. S. Nos. 8-029, 8-031 P, 8-036/8 P.)

INFORMATION FILED: 4-30-59, Dist. Mass., against Allied Bakers Supply, Inc., Cambridge, Mass., and George W. Schaub, vice president and manager of the corporation.

ALLEGED VIOLATIONS: Between 1-10-58 and 9-12-58, the defendants caused quantities of roll mix, rye meal, and flour, while held for sale after shipment in interstate commerce, to be held in a building accessible to insects and to be exposed to contamination by insects, which acts resulted in the articles being adulterated.

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 5-26-59. Corporation fined \$400; Mr. Schaub fined \$100.

26033. Grits and rice. (F.D.C. No. 42455. S. Nos. 57-183 M, 1-213/4 P, 1-442 P.)

INFORMATION FILED: On or about 6-12-59, E. Dist. S.C., against Piggly Wiggly Wholesale, Inc., Charleston, S.C., and Joseph T. Newton, Jr., president.

ALLEGED VIOLATION: Between 2-13-57 and 1-23-59, the defendants caused quantities of grits and rice, while held for sale after shipment in interstate commerce, to be held in a building that was accessible to rodents and insects and to be exposed to contamination by rodents and insects, which acts resulted in the articles being adulterated.

CHARGE: 402(a)(3)—contained rodent hairs, rodent urine, rodent excreta pellets, and insects; and 402(a)(4)—held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 10-14-59. Each defendant fined \$3,000 and the individual defendant was given a suspended sentence of 1 year in jail.

26034. Pea meal. (F.D.C. No. 43140. S. No. 47-239 P.)

QUANTITY: 155 80-lb. bags at Chicago, Ill., in possession of American Cereal-Coffee Co.

SHIPPED: 1-27-59, from Spokane, Wash.

LIBELED: 5-4-59, N. Dist. Ill.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 6-26-59. Consent—sold for conversion into animal feed.

CHOCOLATE PRODUCTS, CONFECTIONERY, AND SUGAR

CHOCOLATE AND COCOA

26035. Chocolate coating slabs. (F.D.C. No. 43481. S. No. 38-489 P.)

QUANTITY: 28 bags, 5 10-lb. slabs each, at Joplin, Mo.

SHIPPED: 9-15-59, from Milwaukee, Wis.

LIBELED: On or about 10-20-59, W. Dist. Mo.

CHARGE: 402(a)(3)—contained mold on chocolate slabs while held for sale.

DISPOSITION: 11-16-59. Consent—destruction.

26036. Cocoa powder. (F.D.C. No. 43534. S. No. 58-177 P.)

QUANTITY: 75 bags at Brooklyn, N.Y.

SHIPPED: Prior to 8-17-58, from outside the United States.

LABEL IN PART: "Natural Process Danish Low Fat Cocoa Powder 88.184 Lbs.
Net Product of Denmark Compex Corp. New York, N.Y. Dansk Boston."

RESULTS OF INVESTIGATION: Examination showed that the article was cocoa powder containing in excess of 30 percent shell by weight.

LIBELED: 9-18-59, E. Dist. N.Y.

CHARGE: 403(g)(1)—when shipped, the article failed to conform to the definition and standard of identity prescribed for low-fat cocoa in that it was not prepared from cacao nibs having a cacao shell content of not more than 1.75 percent by weight, but was prepared from cacao nibs having a cacao shell content of more than 1.75 percent by weight.

DISPOSITION: 12-3-59. Default—destruction.

26037. Cocoa powder. (F.D.C. No. 43529. S. No. 57-989 P.)

QUANTITY: 39 90-lb. bags at Bronx, N.Y.

SHIPPED: 4-20-59, from Boston, Mass., by J. F. Braun & Sons.

LABEL IN PART: "JFB Dansk Boston."

RESULTS OF INVESTIGATION: Examination showed that the article was cocoa powder containing in excess of 20 percent shell by weight.

LIBELED: 9-23-59, S. Dist. N.Y.

CHARGE: 403(g)(1)—when shipped, the article failed to conform to the definition and standard of identity for low-fat cocoa in that it was not prepared from cacao nibs having a cacao shell content of not more than 1.75 percent by weight, but was prepared from cacao nibs having a cacao shell content of more than 1.75 percent by weight.

DISPOSITION: 12-8-59. Consent—claimed by J. F. Braun & Sons, New York, N.Y., and exported to the original supplier in Denmark.

CONFECTIONERY**26038. Candy.** (F.D.C. No. 43575. S. Nos. 73-858 P, 73-860/1 P.)

QUANTITY: 148 cases, 24 10-oz. bags each, and 196 cases, 24 8-oz. bags each, at Jefferson Parish, La.

SHIPPED: 8-27-59, from Atlanta, Ga., by Peachtree Candy Co., Div. of Norris Candy Co.

LABEL IN PART: (Bag) "Peachtree Candies Peanut Butter Kisses [or "Lemon Curls" or "Peanut Logs"] * * * Mfd. by Peachtree Candy Co. Div. Norris Candy Co., Atlanta, Ga."

LIBELED: 10-6-59, E. Dist. La.

CHARGE: 402(a)(3)—contained insect fragments; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 11-6-59. Default—destruction.

26039. Burgundy mix candy. (F.D.C. No. 43011. S. No. 25-050 P.)

QUANTITY: 135 cases, 24 pkgs. each, at Minneapolis, Minn., in possession of Northwest Confections, Inc.

SHIPPED: 4-1-59, from Chicago, Ill.

LABEL IN PART: (Pkg.) "Burgundy Mix * * * Distributor Red Owl Stores, Inc."

RESULTS OF INVESTIGATION: Examination showed that the article was short weight. The article was repacked by the dealer.

LIBELED: 5-13-59, Dist. Minn.

CHARGE: 403(e)(2)—while held for sale, the article failed to bear an accurate statement of the quantity of contents.

DISPOSITION: 6-4-59. Consent—claimed by Northwest Confections, Inc., and relabeled.

26040. Chocolate-coated peanuts. (F.D.C. No. 43003. S. No. 52-186 P.)

QUANTITY: 93 cases, 24 pkgs. each, at Hopkins, Minn.

SHIPPED: 1-7-59, from Cambridge, Mass.

LABEL IN PART: (Pkg.) "Milk Chocolate Dipped Peanuts * * * Net Wt. 8¼-Oz. * * * Ingredients: Sweet Milk Chocolate (Artificially Flavored With Vanillin), Shelled Peanuts, Lecithin And Salt, Red Owl Stores, Inc., Minneapolis, Minn."

RESULTS OF INVESTIGATION: Examination showed that the article was peanuts coated with imitation milk chocolate composed of sugar, vegetable oil, skim milk powder, chocolate liquor, and emulsifiers.

The article was shipped in bulk to Minneapolis, Minn., and after receipt was repacked by Northwest Confections, Minneapolis, Minn., into the packages labeled as described above.

LIBELED: 5-11-59, Dist. Minn.

CHARGE: 403(a)—while held for sale, the label statements "Milk Chocolate Dipped Peanuts" and "Sweet Milk Chocolate" were false and misleading as applied to an article which was not coated with milk chocolate; and 403(i)(2)—the label failed to bear the common or usual name of each ingredient since "Sweet Milk Chocolate (Artificially Flavored With Vanillin)" is not the common or usual name for a coating composed of sugar, vegetable oil, skim milk powder, chocolate liquor, and emulsifiers.

DISPOSITION: 6-4-59. Consent—claimed by Northwest Confections, Inc., Minneapolis, Minn., and relabeled.

SUGAR

26041. Sugar. (F.D.C. No. 43563. S. No. 59-913 P.)

QUANTITY: 109 100-lb. bags at Baltimore, Md., in possession of Pennsylvania Railroad Co.

SHIPPED: 8-4-59, from outside the United States.

LIBELED: On or about 10-1-59, Dist. Md.

CHARGE: 402(a)(3)—contained insects and rodent excreta pellets; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 10-13-59. Consent—claimed by Lombard & Co., New York, N.Y., and re-refined.

26042. Dextrose sugar. (F.D.C. No. 42720. S. No. 48-363 P.)

QUANTITY: 39 100-lb. bags at San Francisco, Calif., in possession of R & R Sales.

SHIPPED: 11-24-58 and 12-10-58, from Kansas City, Mo.

LIBELED: 3-6-59, N. Dist. Calif.

CHARGE: 402(a)(3)—contained insects, rodent urine, and rodent excreta pellets; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 5-5-59. Default—destruction.

DAIRY PRODUCTS

BUTTER

26043. Butter. (F.D.C. No. 43501. S. No. 47-190 P.)

QUANTITY: 287 65-lb. ctns. at Chicago, Ill.

SHIPPED: 9-3-59, from St. Louis, Mo., by Paul A. Schulze Co.

LABEL IN PART: "Packed By P. A. Schulze Co."

RESULTS OF INVESTIGATION: Examination showed that the article was made from decomposed cream.

LIBELED: 9-10-59, N. Dist. Ill.

CHARGE: 402(a)(3)—contained a decomposed substance when shipped.

DISPOSITION: 11-2-59. Consent—claimed by Paul A. Schulze Co. and converted into butter oil.

26044. Butter. (F.D.C. No. 43505. S. No. 85-418 P.)

QUANTITY: 38 64-lb. boxes at New York, N.Y.

SHIPPED: 10-21-59, from Trenton, Mo., by Central Farm Products Co.

LABEL IN PART: "Creamery Butter * * * Manufactured by Central Farm Products, Trenton, Missouri."

RESULTS OF INVESTIGATION: Examination showed that the article was deficient in fat.

LIBELED: 11-9-59, S. Dist. N.Y.

CHARGE: 402(b)(2)—when shipped, the article was below the legal standard for milk fat.

DISPOSITION: 12-8-59. Consent—claimed by J. R. Kramer, Inc., New York, N.Y., and reworked.

MILK

26045. Evaporated skim milk. (F.D.C. No. 43344. S. No. 62-706 P.)

QUANTITY: 50 cases, 48 14½-oz. cans each, at Detroit, Mich.

SHIPPED: 7-11-59, from Defiance, Ohio, by Defiance Milk Products Co.

LABEL IN PART: (Can) "Sunshine Brand Evaporated Skimmed Milk Low in Calories * * * Packed by The Defiance Milk Products Co., Defiance, Ohio * * * Sunshine has those health-giving vitamins and minerals found in milk. People who are obliged to control their intake of fats, have found Sunshine to be just what is needed * * * is especially suitable for those requiring protein, calcium, phosphorus and lactose."

LIBELED: 8-11-59, E. Dist. Mich.

CHARGE: 403(a)—when shipped, the label statements "Low in Calories," "has those health-giving vitamins * * * found in milk" and "especially suitable for those requiring * * * lactose" were false and misleading in that the article was not low in calories, and did not provide all of the vitamins in milk, and in that there is no requirement for lactose in human nutrition; and 403(j)—the article purported to be and was represented as a food for special

dietary uses by reason of its value as a source of the minerals, calcium, and phosphorus, and in the control of body weight, and its label failed to bear, as required by regulations, a statement of the minimum daily requirements for calcium and phosphorus supplied by such food when consumed in a specified quantity during a period of one day, and its label also failed to bear as required by regulations, the percent by weight of protein, fat, and available carbohydrates in such food.

DISPOSITION: 11-5-59. Default—delivered to a public institution.

EGGS

26046. Incubator reject eggs. (Inj. No. 353.)

COMPLAINT FOR INJUNCTION FILED: 4-3-59, N. Dist. Ga., against Crawford Irvin, Mount Airy, Ga.

CHARGE: The complaint alleged that the defendant was engaged in the business of purchasing, receiving, candling, and packing incubator reject eggs, and was causing to be introduced and delivered for introduction into interstate commerce, such eggs which were adulterated under 402(a)(3) in that they contained decomposed egg material such as black rot, sour rot, mixed rot, and eggs ranging in other degrees of decomposition, and were otherwise unfit for food because they were incubator reject eggs.

The complaint alleged further that in purchasing, receiving, candling, and packing the incubator reject eggs the following method of operation was employed:

(a) the defendant would purchase incubator reject eggs from various hatcheries within and without the State of Georgia, such eggs being ostensibly fertile chicken eggs which had been incubated for at least 18 days at a constant temperature of approximately 99° F. without properly developing chickens;

(b) the defendant would arrange with the hatcheries to have the incubator reject eggs put into cases of 30-dozen capacity, and set aside to await pickup by the defendant's vehicle;

(c) the defendant would pick up the incubator reject eggs at the hatcheries, paying approximately \$2 per 30-dozen case, and then transport the eggs to the defendant's plant at Mount Airy, Ga.;

(d) upon receipt at the Mount Airy plant the incubator reject eggs containing black rots, sour rots, mixed rots, and eggs ranging in other degrees of decomposition were subjected to candling, the only operation performed at the Mount Airy plant, which candling would separate out some of the grossly decomposed incubator reject eggs; and

(e) the defendant would then cause to be introduced into interstate commerce such candled incubator reject eggs adulterated as described above from the Mount Airy plant for delivery to Guilford, Conn., and East Brunswick, N.J., without denaturing the eggs so as to preclude their use in human food products.

The complaint alleged also that the defendant had on hand at his Mount Airy plant stocks of incubator reject eggs which in the usual and ordinary course of business would be shipped in interstate commerce, and that such stocks constituted a menace to interstate commerce because they contained decomposed egg material and were otherwise unfit for food because they were incubator reject eggs.

DISPOSITION: On 4-23-59, the defendant having been given notice of a hearing and having failed to appear, the court entered a preliminary injunction against the defendant. On 6-10-59, the defendant having failed to answer and being in default, the court entered a decree of permanent injunction against the defendant, enjoining him from directly or indirectly causing to be introduced and delivered for introduction into interstate commerce:

(a) incubator reject eggs, unless and until such eggs are completely denatured so as to preclude their use in human food products;

(b) any of the stocks of incubator reject eggs on hand at the defendant's Mount Airy, Ga., plant or any incubator reject eggs elsewhere unless and until such eggs were completely denatured so as to preclude their use in human food products under the supervision of the Food and Drug Administration; and

(c) in the event the defendant should break out of the shell incubator reject eggs at the Mount Airy plant, or elsewhere, then the contents of such eggs prior to interstate movement should be completely denatured so as to preclude their use in human food products.

26047. Frozen eggs. (F.D.C. No. 42553. S. Nos. 32-195 P, 32-715/16 P.)

QUANTITY: 1,033 30-lb. cans at Brooklyn, N.Y.

SHIPPED: 8-23-58, from Nashville, Tenn., by Modern Egg Products, Inc.

LABEL IN PART: (Can) "Frozen Whole Eggs Packed for L. Rudolph & Co. * * * 232 * * * 2" or "Frozen Whole Eggs, 30 Lbs. Net Weight, Modern Egg Products, Nashville, Tenn. 226 Whole Eggs."

LIBELED: 12-15-58, E. Dist. N.Y.

CHARGE: 402(a) (3)—when shipped, contained decomposed eggs.

DISPOSITION: 6-8-59. Default—destruction.

26048. Frozen egg product. (F.D.C. No. 42269. S. No. 31-652 P.)

QUANTITY: 845 cans at Brooklyn, N.Y.

SHIPPED: 7-7-58, from Nashville, Tenn., by Modern Egg Co.

LABEL IN PART: "Vitabake 30 Lbs. Net Weight * * * Whole Eggs, Egg Yolks, Sugar & Salt."

LIBELED: 11-6-58, E. Dist. N.Y.

CHARGE: 402(a) (3)—when shipped, contained decomposed eggs.

DISPOSITION: 6-8-59. Default—destruction.

26049. Frozen eggs. (F.D.C. No. 43103. S. Nos. 9-023 P, 9-273 P.)

INFORMATION FILED: 10-13-59, N. Dist. Ohio, against the Wooster Cooperative Poultry Association, a corporation, Wooster and Millersburg, Ohio.

SHIPPED: Between 1-10-58 and 7-21-58, from Ohio to Pennsylvania.

LABEL IN PART: (Can) "Frozen Whole Eggs 30 Lbs. Net Wt. * * * Packed By Wooster Coop. Plty. Ass'n. 14 Wooster, Ohio."

CHARGE: 402(a) (3)—contained decomposed eggs.

PLEA: Guilty.

DISPOSITION: 10-30-59. \$300 fine.

26050. Frozen eggs. (F.D.C. No. 43049. S. Nos. 9-666/7 P, 9-743 P, 9-752 P.)

INFORMATION FILED: 9-25-59, N. Dist. Ohio, against Anthony A. Bush, t/a Ashtabula Poultry Co., Ashtabula, Ohio.

SHIPPED: Between 8-20-58 and 9-11-58, from Ohio to New York.

CHARGE: 402(a) (3)—contained decomposed eggs when shipped.

PLEA: Guilty.

DISPOSITION: 10-30-59. \$300 fine.

26051. Frozen eggs. (F.D.C. No. 43480. S. No. 66-162 P.)

QUANTITY: 266 30-lb. cans at Pittsburgh, Pa.

SHIPPED: Between 5-4-59 and 5-25-59, from Berne, Ind., by V. C. Graber Produce.

LIBELED: 10-16-59, W. Dist. Pa.

CHARGE: 402(a) (3)—contained decomposed eggs when shipped.

DISPOSITION: 10-27-59. Consent—claimed by Morris A. Robins, t/a Robins & Co., Pittsburgh, Pa. Segregated; 73 30-lb. cans denatured.

26052. Canned dried egg solids. (F.D.C. No. 42946. S. No. 21-623 P.)

QUANTITY: 1,000 cases, 6 3-lb. cans each, at South Sioux City, Nebr.

SHIPPED: 2-24-59, from Minneapolis, Minn., by National Cargo Salvage Co.

LABEL IN PART: (Can) "Egg Solids, Whole, Stabilized Type II * * * Marshall Produce Company, Marshall, Minn."

LIBELED: 3-24-59, Dist. Nebr.

CHARGE: 402(a) (3)—contained decomposed egg material when shipped.

DISPOSITION: 5-15-59. Consent—claimed by National Cargo Salvage Co., South Sioux City, Nebr. Segregated; 148 cases destroyed.

FEEDS AND GRAINS

26053. Alfalfa meal. (F.D.C. No. 43094. S. No. 374 M.)

INFORMATION FILED: 6-19-59, Dist. Nebr., against Harold E. Clark, t/a H. E. Clark Co.

SHIPPED: 9-25-58, from Nebraska to Texas.

CHARGE: 402(b) (2)—a food containing less than 13 percent of protein had been substituted for a food containing 13 percent protein which the article was represented to be.

PLEA: Guilty.

DISPOSITION: 8-6-59. Fine of \$750, plus costs.

26054. Oats and wheat combined. (F.D.C. No. 43389. S. No. 27-092 P.)

QUANTITY: 73,920 lbs. of oats commingled with a small percentage of wheat at Minneapolis, Minn.

SHIPPED: 6-19-59, from Streeter, N. Dak., by Farmers Cooperative Elevator Co.

LIBELED: 7-9-59, Dist. Minn.

CHARGE: 402(a) (2)—when shipped, the article contained a pesticide chemical, namely, a mercurial compound, which is unsafe within the meaning of 408 since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on oats or wheat has been prescribed by regulations.

DISPOSITION: 7-14-59. Consent—claimed by Farmers Cooperative Elevator Co., Streeter, N. Dak. Segregated; 36,770 lbs. destroyed.

26055. Shelled corn. (F.D.C. No. 43080. S. No. 55-059 M.)

INFORMATION FILED: 7-1-59, S. Dist. Ind., against Rockport Grain Co., Inc., Rockport, Ind.

SHIPPED: 8-27-57, from Indiana to Kentucky.

CHARGE: 402(a) (2)—the article was a raw agricultural commodity and when shipped, it bore and contained a pesticide chemical, namely, thiram, which is unsafe within the meaning of 408 since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on shelled corn has been prescribed.

PLEA: Nolo contendere.

DISPOSITION: 9-28-59. \$500 fine, plus costs.

26056. Sheep pellets. (F.D.C. No. 43060. S. No. 567 M.)

INFORMATION FILED: 5-14-59, W. Dist. Mo., against Dannen Mills, Inc., St. Joseph, Mo.

SHIPPED: 4-22-58, from Missouri to Kansas.

LABEL IN PART: (Bag) "50 LBS. NET WEIGHT DANNEN 22% SHEEP PELLETS GUARANTEED ANALYSIS CRUDE PROTEIN, NOT LESS THAN 22.0% CRUDE FAT, NOT LESS THAN 1.5% MFG. BY DANNEN MILLS, INC. ST. JOSEPH, MO."

CHARGE: 402(b) (1)—the valuable constituents, protein and fat, had been in part omitted from the article.

PLEA: Guilty.

DISPOSITION: 9-11-59. \$100 fine.

FISH AND SHELLFISH

26057. Fresh dressed whitefish. (F.D.C. No. 43411. S. No. 79-393 P.)

QUANTITY: 10 60-lb. boxes at Detroit, Mich.

SHIPPED: 7-25-59, from Winnipeg, Canada, by Canadian Fish Producers, Ltd.

LABEL IN PART: "Reindeer Lake Manitoba * * * Fresh Dressed Jumbo Whitefish * * * Canadian Fish Producers Ltd. Man."

LIBELED: On or about 8-7-59, E. Dist. Mich.

CHARGE: 402(a) (3)—contained parasitic cysts when shipped.

DISPOSITION: 9-15-59. Consent—claimed by Salasnek Fisheries, Inc., Detroit, Mich., and exported to the original supplier in Canada.

26058. Frozen whitefish. (F.D.C. No. 41833. S. Nos. 9-257/8 P.)

QUANTITY: 30 60-lb. boxes at Pittsburgh, Pa.

SHIPPED: 11-12-57, from Detroit, Mich., by J. Kozloff Fish Distributors, Inc.

LABEL IN PART: "La Plonge Lake, Sask. Dressed Whitefish Waite Fisheries Ltd., Big River, Sask. Can. PS 26 214 Eres Sides 1032 Canada Inspected Product of Canada" and "Med. Dsd. Whites Athapapuscon Lake Manitoba, Canadian Fish Producers Ltd., Winnipeg, Man. 214 Canada Inspected 2917 Product of Canada."

LIBELED: 7-2-58, W. Dist. Pa.

CHARGE: 402(a) (3)—contained parasitic cysts when shipped.

DISPOSITION: 11-26-58. Consent—claimed by Cantor & Smolar Co., Pittsburgh, Pa., and exported to original supplier in Canada.

26059. Dressed whiting. (F.D.C. No. 43453. S. No. 17-890 P.)

QUANTITY: 159 cases, 20 1½-lb. boxes each, at Nashville, Tenn.

SHIPPED: 8-4-59, from Gloucester, Mass., by North Atlantic Fish Co., Inc.

LABEL IN PART: (Box) "North Atlantic Frozen Fresh Dressed Whiting * * *
Distributed by North Atlantic Fish Co., Inc., Gloucester-Boston, Mass."

LIBELED: 9-23-59, M. Dist. Tenn.

CHARGE: 402(b)(2)—when shipped, partially eviscerated whiting fish had been substituted in part for "Dressed Whiting"; 402(b)(4)—partially eviscerated whiting fish had been packed with the article so as to make it appear to be dressed whiting fish, which is of better and of greater value than the article; and 403(a)—the label statement "Dressed Whiting" was false and misleading.

DISPOSITION: 12-17-59. Default—delivered to charitable institutions.

26060. Frozen yellow pike. (F.D.C. No. 43660. S. No. 85-236 P.)

QUANTITY: 8 boxes, 435 lbs. total, at New York, N.Y.

SHIPPED: 9-23-59, from Chicago, Ill.

LIBELED: 11-20-59, S. Dist. N.Y.

CHARGE: 402(a)(3)—contained decomposed fish while held for sale.

DISPOSITION: 12-16-59. Default—destruction.

26061. Frozen sturgeon. (F.D.C. No. 43656. S. No. 85-235 P.)

QUANTITY: 59 sturgeon fish, 520 lbs. total, at New York, N.Y.

SHIPPED: 7-20-59, from North Bay, Canada.

LIBELED: 11-20-59, S. Dist. N.Y.

CHARGE: 402(a)(3)—contained decomposed fish while held for sale.

DISPOSITION: 12-16-59. Default—destruction.

26062. Frozen carp. (F.D.C. No. 43609. S. No. 85-225 P.)

QUANTITY: 4,363 lbs. at New York, N.Y.

SHIPPED: 7-23-59, from Iowa, Michigan, and Wisconsin.

LIBELED: 10-23-59, S. Dist. N.Y.

CHARGE: 402(a)(3)—contained decomposed carp while held for sale.

DISPOSITION: 11-27-59. Default—destruction.

26063. Frozen ocean perch fillets. (F.D.C. No. 43541. S. No. 64-012 P.)

QUANTITY: 368 12-lb. cases at Gloucester, Mass.

SHIPPED: These fillets were from fish caught by the fishing vessel "Gaetano S" in the Atlantic Ocean outside the territorial limits of Massachusetts, on 9-3-59.

LIBELED: 9-16-59, Dist. Mass.

CHARGE: 402(a)(3)—contained parasitic copepods and pus pockets when shipped.

DISPOSITION: 10-9-59. Consent—claimed by American Fillets Corp., Gloucester, Mass. Segregation proved to be unsuccessful and the fish were subsequently destroyed.

26064. Frozen cod fillets. (F.D.C. No. 43540. S. Nos. 63-939/40 P.)

QUANTITY: 41 ctns., 5 10-lb. boxes each, and 2 ctns., 4 10-lb. boxes each, at Boston, Mass.

SHIPPED: These fillets were from fish caught by the fishing vessels "Mary & Joan," "Wisconsin," "Winchester," and "Regina Maria," in the waters of the Atlantic Ocean outside the territorial limits of Massachusetts, on 7-27-59.

LIBELED: 9-16-59, Dist. Mass.

CHARGE: 402(a) (3)—contained decomposed fish when shipped.

DISPOSITION: 10-15-59. Consent—claimed by Eastern Seafood Co., Boston, Mass. Segregated; 90 lbs. destroyed.

26065. Anchovies. (F.D.C. No. 43647. S. Nos. 75-325/7 P.)

QUANTITY: 11 cases, 24 13-oz. tins each, and 38 cases, 100 2-oz. tins each, at Chicago, Ill.

SHIPPED: 5-16-59, from Lisbon, Portugal.

LIBELED: 11-5-59, N. Dist. Ill.

CHARGE: 402(a) (3)—contained decomposed anchovies while held for sale.

DISPOSITION: 12-4-59. Default—destruction.

26066. Frozen salmon. (F.D.C. No. 43650. S. No. 85-231 P.)

QUANTITY: 12 boxes, 2,068 lbs. total, at New York, N.Y.

SHIPPED: 7-22-59, from Vancouver, Canada.

RESULTS OF INVESTIGATION: The article was shipped unfrozen and was frozen after arrival at New York, N.Y.

LIBELED: 11-9-59, S. Dist. N.Y.

CHARGE: 402(a) (3)—contained decomposed fish while held for sale.

DISPOSITION: 12-4-59. Default—destruction.

26067. Frozen whale meat (3 seizure actions). (F.D.C. Nos. 42977, 42978, 42979. S. Nos. 12-526 P, 12-539/40 P.)

QUANTITY: 1,410 66-lb. ctns., at Oshkosh, Caroline, and Thiensville, Wis.

SHIPPED: 3-9-59 and 3-10-59, from New York, N.Y., by Interocean Chemical and Minerals Corp.

LABEL IN PART: "Frozen Sperm Whale Meat * * * Product of Japan * * * Japan Export Frozen Marine Products Inspection Corporation."

LIBELED: 4-8-59, E. Dist. Wis.

CHARGE: 402(a) (3)—contained decomposed whale meat when shipped.

DISPOSITION: 6-29-59. Consent—claimed by Interocean Chemical and Minerals Corp., and returned to the original supplier, Asahi of Japan.

26068. Crabmeat. (F.D.C. No. 43242. S. Nos. 2-936/7 P, 56-356/8 P, 56-900/1 P.)

INFORMATION FILED: 10-2-59, E. Dist. S.C., against John S. Graves, Jr., t/a J. S. Graves, Jr., Bluffton, S.C.

SHIPPED: Between 7-31-58 and 6-16-59, from South Carolina to Georgia.

LABEL IN PART: (Can) "J. S. Graves S.C. 3 Claw [or "Special" or "Lump"] Crab Meat 1 Lb. Net Bluffton, S.C."

CHARGE: 402(a) (4)—prepared and packed under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 10-12-59. \$500 fine, sentence of 1 year in jail which was suspended, and probation for 1 year.

26069. Oysters. (F.D.C. No. 43075. S. No. 5-360 P.)

INFORMATION FILED: 4-24-59, E. Dist. Va., against A. Jackson Booth, Burgess, Va.

SHIPPED: 12-16-58, from Virginia to Maryland.

LABEL IN PART: (Tag) "A. Jackson Booth Burgess, Va. 5 gal. Standard Shucked Dec 16/1958."

CHARGE: 403(g) (1)—when shipped, the article failed to conform to the definition and standard of identity for oysters, since, in the preparation of the article, the total time (computed as directed) that such oysters were in contact with water, or salt water containing less than 0.75 percent salt, after leaving the shucker, was more than 30 minutes, which was the maximum time permitted by the definition and standard.

PLEA: Nolo contendere.

DISPOSITION: 11-23-59. Probation for 2 years.

26070. Oysters. (F.D.C. No. 43074. S. No. 5-354 P.)

INFORMATION FILED: 4-24-59, E. Dist. Va., against Samuel L. Cowart, t/a S. L. Cowart, Lake, Va.

SHIPPED: 11-6-58, from Virginia to Maryland.

LABEL IN PART: "S. L. Cowart Lake Va Va 90."

CHARGE: 403(g) (1)—when shipped, the article failed to conform to the definition and standard of identity for oysters, since, in the preparation of the article, the containers for the oysters upon being shucked were being filled with water, or salt water, in excess of one-fourth of the volume of oysters and liquid when emptied, which was the maximum amount of water permitted in the containers by the definition and standard.

PLEA: Nolo contendere.

DISPOSITION: 11-23-59. Probation for 2 years.

26071. Frozen rock lobster tails. (F.D.C. No. 43568. S. No. 58-274 P.)

QUANTITY: 37 cases, 4 10-lb. pkgs. each, at New York, N.Y.

SHIPPED: Prior to 6-19-59, from Brazil.

LIBELED: 10-6-59, S. Dist. N.Y.

CHARGE: 402(a) (3)—contained decomposed rock lobster tails while held for sale.

DISPOSITION: 11-2-59. Default—destruction.

26072. Frozen rock lobster tails. (F.D.C. No. 43608. S. No. 85-224 P.)

QUANTITY: 25 ctns., 4 10-lb. pkgs. each, at New York, N.Y.

SHIPPED: 9-15-59, from Newark, N.J.

LIBELED: 10-23-59, S. Dist. N.Y.

CHARGE: 402(a) (3)—contained decomposed rock lobster tails while held for sale.

DISPOSITION: 11-27-59. Default—destruction.

FRUITS AND VEGETABLES**DRIED FRUIT**

26073. Evaporated apples. (F.D.C. No. 43291. S. No. 63-763 P.)

QUANTITY: 230 50-lb. ctns. at Natick, Mass.

SHIPPED: 5-16-59 and 5-18-59, from North Rose, N.Y., by B. Richardson Canning Co. (Allie P. Brown).

LABEL IN PART: "Evaporated Apples * * * A. P. Brown, North Rose."

LIBELED: 7-9-59, Dist. Mass.

CHARGE: 402(a) (3)—contained rodent excreta pellets and rodent hairs; and 402(a) (4)—prepared and packed under insanitary conditions.

DISPOSITION: 11-9-59. Default—destruction.

FROZEN FRUIT

26074. Frozen boysenberries. (F.D.C. No. 38853. S. No. 18-963 M.)

QUANTITY: 380 30-lb. ctns. at Nashville, Tenn.

SHIPPED: Between 6-15-55 and 7-12-55, from Sanger, Manteca, and Modesto, Calif.

LIBELED: 2-16-56, M. Dist. Tenn.

CHARGE: 402(a) (3)—while held for sale, the article contained moldy boysenberries and was otherwise unfit for food by reason of crushed and broken condition of cartons exposing the contents to possible contamination.

DISPOSITION: On 11-1-56, the court entered a default decree of condemnation and ordered that the article be delivered to the Tennessee Orphans Home for use other than human consumption.

On 11-2-56, the marshal authorized the Tennessee Warehouse & Cold Storage Corp., Nashville, Tenn., where the article had remained during the course of the libel proceedings, to release the article to the Tennessee Orphans Home. Thereafter, the marshal's office furnished a representative of the Tennessee Orphans Home a copy of the decree of 11-1-56, with instructions to present the decree to the Tennessee Warehouse & Cold Storage Corp. as authorization to deliver the article to the Orphans Home representative. Upon arrival at the warehouse of the Tennessee Warehouse & Cold Storage Corp., the representative of the Orphans Home was advised that the article could not be located.

A petition was filed on 7-1-57, for an order to show cause why the Tennessee Warehouse & Cold Storage Corp. and Seymour Levin, president of such corporation, should not be punished for criminal contempt for disobedience to the court's orders as evidenced by the disappearance of the article. The contempt action came on for hearing before the court on 3-2-59, at which time the defendants entered their pleas of nolo contendere and were assessed a joint fine of \$25.

26075. Frozen cranberries. (F.D.C. No. 43806. S. No. 75-317 P.)

QUANTITY: 652 60-lb bags at Chicago, Ill.

SHIPPED: 10-8-59, from Wisconsin Rapids, Wis., by Gottschalk Cranberry Co.

LIBELED: 11-16-59, N. Dist. Ill.; libel amended, 11-17-59.

CHARGE: 402(a)(2)—when shipped, the article was a raw agricultural commodity and contained a pesticide chemical, namely, aminotriazole, which is unsafe within the meaning of 408 since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on cranberries has been prescribed by regulations.

DISPOSITION: 12-8-59. Default—destruction.

MISCELLANEOUS FRUIT PRODUCT

26076. Orange juice. (F.D.C. Nos. 41919, 42011. S. Nos. 7-047/50 P, 7-584 P.)

QUANTITY: 741 cases, 24 18-oz cans each, and 1,249 cases, 12 46-oz. cans each, at East Hartford, Conn., and 262 cases, 24 1-pt. 2-oz. cans each, at East Providence, R.I.

SHIPPED: Between 1-14-58 and 5-2-58, from Anaheim, Calif., by E. A. Silzle Corp.

LABEL IN PART: (Can) “‘YOR’ Garden California Unsweetened Orange Juice * * * First National Stores Inc. Distributors Somerville, Mass.”

LIBELED: 7-15-58 and 8-29-58, Dist. Conn., and Dist. R.I.

CHARGE: 402(b)(2)—water had been substituted in part for orange juice; and 403(a)—the label statement “Orange Juice” was false and misleading as applied to an article composed of orange juice and water.

DISPOSITION: 9-1-59. E. A. Silzle Corp., having appeared as claimant and the libel action in Rhode Island having been removed to the District of Connecticut and consolidated with the libel action there pending, and the claimant having consented, judgment of condemnation was entered and the court ordered that the product be released under bond. The decree provided that the claimant should place labels on the article bearing the following statements: “For use as Orange Drink by the State of Connecticut only, not for dietetic purposes. Not to be resold under penalty of Federal law,” and that the claimant should dispose of the article by sale for institutional purposes to the State of Connecticut.

JAMS

26077. Boysenberry jam and red raspberry jam. (F.D.C. No. 43592. S. Nos. 53-234 P, 53-237 P.)

QUANTITY: 49 cases, 12 2-lb. 11-oz. jars each, of boysenberry jam, and 73 cases, 12 10-oz. jars each, of red raspberry jam, at Phoenix, Ariz.

SHIPPED: Between 4-6-59 and 9-15-59, from Los Angeles, Calif., by Dixie Preserves, Ltd.

LABEL IN PART: (Jar) “Dixie * * * Boysenberry [or “Red Raspberry”] Jam Dixie Preserves Ltd., Los Angeles, California.”

LIBELED: 10-14-59, Dist. Ariz.

CHARGE: 403(g)(1)—when shipped, the articles failed to conform to the definition and standard of identity for jams, since the articles were made from a mixture composed of less than 45 parts by weight of the specified fruit ingredient, to each 55 parts by weight of one of the sweetening ingredients specified in the definition and standard.

DISPOSITION: 11-25-59. Default—delivered to charitable institutions.

VEGETABLES AND VEGETABLE PRODUCTS

26078. Canned potatoes. (F.D.C. No. 43611. S. No. 72-147 P.)

QUANTITY: 66 cases, 6 6-lb. 6-oz. cans each, at Atlanta, Ga.

SHIPPED: 5-12-59, from Tabor City, N.C.

RESULTS OF INVESTIGATION: Examination showed that the article was undergoing chemical decomposition.

LIBELED: 10-19-59, N. Dist. Ga.

CHARGE: 402(a)(3)—contained a decomposed substance while held for sale.

DISPOSITION: 12-18-59. Default—destruction.

26079. Fresh spinach. (F.D.C. No. 43506. S. Nos. 45-591/2 P, 49-274 P.)

QUANTITY: 55 40-lb. crates, 10 35-lb. crates, and 324 10-oz. pkgs., at Denver, Colo.

SHIPPED: 10-27-59, from Castroville, Calif., by Earl B. Andersen.

LABEL IN PART: (Crate) "E. B. Andersen Packing Company SPINACH Growers-Packers-Shippers Castroville, Calif. Union Packed." and (bag) "Mrs. Condie's Fresh Washed Spinach—Mrs. Condie's Salad Co. * * * Denver, Colorado" and "Johnny Downs Spinach-Denver, Colorado. Fresh Vegetable Package Company."

LIBELED: 11-12-59, Dist. Colo.

CHARGE: 402(a)(2)(B)—the article was a raw agricultural commodity and when shipped, contained a pesticide chemical, namely, perthane, which is unsafe within the meaning of 408, since the quantity of perthane contained on the article was greater than the tolerance fixed by regulations for perthane on fresh spinach.

DISPOSITION: 12-16-59. Default—destruction.

26080. Canned succotash. (F.D.C. No. 41863. S. No. 4-443 P.)

QUANTITY: 24 ctns., 24 1-lb. cans each, at Washington, N.C.

SHIPPED: 5-13-58, from Baltimore, Md., by Lord-Mott Co., Inc.

LABEL IN PART: (Can) "Old Reliable * * * Triple Succotash."

LIBELED: 6-23-58, E. Dist. N.C.

CHARGE: 402(a)(3)—contained a decomposed substance when shipped.

DISPOSITION: 8-4-58. Default—destruction.

26081. Olives. (F.D.C. No. 42260. S. No. 30-821 P.)

QUANTITY: 3 150-lb. kegs at New York, N.Y.

SHIPPED: November 1957, from Greece.

LIBELED: 10-6-58, S. Dist. N.Y.

CHARGE: 402(a)(3)—contained decomposed olives while held for sale.

DISPOSITION: 10-29-58. Default—destruction.

TOMATOES AND TOMATO PRODUCTS

26082. Canned tomatoes. (Inj. No. 348.)

COMPLAINT FOR INJUNCTION FILED: 12-24-58, E. Dist. Va., against William I. James, t/a James & James, Kendall Grove, Va.

CHARGE: The complaint alleged that the defendant was engaged in the business of preparing, canning, and distributing canned tomatoes and that the defendant had on hand, at the James & James cannery, 7,500 cases, each containing 24 1-lb. cans of tomatoes, and bearing code numbers 8T50, 8T80, 8T81, 8T82, 8T90, which would, in the usual and ordinary course of business, be introduced and delivered for introduction into interstate commerce by the defendant, and which constituted a menace to interstate commerce in that they were adulterated under 402(a)(3) by reason of the presence of fly eggs and maggots in the tomatoes.

The complaint alleged further that the defendant was well aware of the requirements of the Act; that factory inspections of the defendant's cannery were made by the Food and Drug Administration on 8-10-54 and 8-20-58, at which times the defendant was warned against the interstate shipment of adulterated canned tomatoes and of the infestation of raw stock tomatoes with fly eggs and maggots; and, that on 8-26-58, after the inspection of 8-20-58, the defendant had shipped 350 cases of canned tomatoes in interstate commerce, which canned tomatoes were seized on 11-3-58, as being violative of 402(a)(3) by reason of the presence of fly eggs and maggots.

DISPOSITION: The court entered a temporary restraining order on 12-24-58, and a preliminary injunction on 1-2-59. On 1-7-59, the defendant having consented, a decree of permanent injunction was entered against the defendant enjoining him against the introduction and delivery for introduction into interstate commerce, of any of the 7,500 cases which bore the code numbers 8T50, 8T80, 8T81, 8T82, and 8T90.

26083. Canned tomatoes. (F.D.C. No. 43621. S. No. 68-265 P.)

QUANTITY: 388 cases, 6 6-lb. 6-oz. cans each, at Philadelphia, Pa.

SHIPPED: 8-26-59, from Quantico, Md., by M. W. Acworth & Son, Inc.

LABEL IN PART: (Can) "Penn Tomatoes * * * Packed for Spatola-Thompson, Inc., Phila., Pa."

LIBELED: 10-28-59, E. Dist. Pa.

CHARGE: 402(a)(3)—contained fly eggs and maggots; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 11-24-59. Default—destruction.

26084. Tomato catsup. (F.D.C. No. 43603. S. No. 68-254 P.)

QUANTITY: 598 cases, 24 14-oz. btls. each, at Philadelphia, Pa.

SHIPPED: 9-23-59, from Hammonton, N.J., by C & E Cannerys, Inc.

LABEL IN PART: (Btl.) "Ideal Hot Tomato Catsup * * * Distributed by American Stores Co., Phila., Pa. Acme Ideal."

LIBELED: 10-16-59, E. Dist. Pa.

CHARGE: 402(a)(3)—contained fly eggs, flies, and maggots when shipped.

DISPOSITION: 12-2-59. Default—destruction.

26085. Tomato sauce. (F.D.C. No. 43443. S. No. 60-743 P.)

QUANTITY: 72 cases, 96 tins each, at Salem, Oreg.

SHIPPED: 2-11-59, from Oakland, Calif., by Veronica Olive Oil Co.

LABEL IN PART: (Tin) "Delicious Brand Tomato Sauce Net Weight 7½ ozs. * * * Distributed by Delicious Food Products, Oakland, Calif."; (case) "8 doz. San Benito Brand * * * Hollister Canning Co. Hollister, California."

RESULTS OF INVESTIGATION: Examination showed the article to be short weight.

LIBELED: 9-15-59, Dist. Oreg.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of the contents.

DISPOSITION: 10-28-59. Default—delivered to a public institution.

MEAT PRODUCTS AND POULTRY

26086. Sliced beef with barbecue sauce and sliced pork with barbecue sauce.
(F.D.C. No. 43187. S. Nos. 36-293/4 P.)

QUANTITY: 14 cases, 4 jars each, and 29 jars, at Webster Groves, Mo.

SHIPPED: 1-21-59, from Evansville, Ind.

LIBELED: 6-12-59, E. Dist. Mo.; libel amended, 6-17-59.

CHARGE: 402(a)(3)—contained a decomposed substance while held for sale.

DISPOSITION: 7-28-59. Default—destruction.

26087. Dressed poultry. (F.D.C. No. 39371. S. Nos. 40-936 M, 40-985/6 M.)

INFORMATION FILED: On or about 1-27-58, N. Dist. Ga., against Cagle's, Inc., Atlanta, Ga.

SHIPPED: 5-12-56 and 5-14-56, from Georgia to Minnesota.

CHARGE: 402(a)(3)—contained fecal matter; and 402(a)(4)—prepared under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 3-3-58. \$600 fine.

26088. Dressed poultry. (F.D.C. No. 43779. S. No. 52-644 P.)

QUANTITY: 499 crates, 20 chickens each, at Minneapolis, Minn.

SHIPPED: 6-16-59, from Versailles, Ohio.

LIBELED: 10-23-59, Dist. Minn.

CHARGE: 402(a)(3)—contained decomposed chickens while held for sale.

DISPOSITION: 12-7-59. Default—destruction.

26089. Dressed turkeys. (F.D.C. No. 41891. S. No. 30-048 P.)

QUANTITY: 405 lbs., in 6 crates, at Brooklyn, N.Y.

SHIPPED: 6-10-59, from Valley View, Pa., by Beechwood Farms.

LIBELED: 7-1-58, E. Dist. N.Y.

CHARGE: 402(a)(3)—contained fecal matter and dirt, and extensively torn and bruised birds when shipped; and 402(a)(5)—the article was in whole or in part the product of a diseased animal.

DISPOSITION: 7-30-58. Default—destruction.

NUTS*

26090. Shelled cashew nuts. (F.D.C. No. 43793. S. No. 79-752 P.)

QUANTITY: 14 25-lb. tins at Grand Rapids, Mich.

SHIPPED: 6-26-59 and 8-6-59, from New York, N.Y.

LIBELED: 11-3-59, W. Dist. Mich.

*See also No. 26005.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 12-3-59. Default—delivered to a public institution for use as animal feed.

26091. Shelled pecans. (F.D.C. No. 42643. S. No. 17-591 P.)

QUANTITY: 6 100-lb. bags at Cincinnati, Ohio.

SHIPPED: 11-22-58, from Albany, Ga.

LIBELED: 12-15-58, S. Dist. Ohio.

CHARGE: 402(a)(3)—contained decomposed nuts while held for sale.

DISPOSITION: 7-10-59. Default—delivered to a public institution for use as animal feed.

26092. Shelled peanuts. (F.D.C. No. 43400. S. No. 60-509 P.)

QUANTITY: 46 115-lb. bags at Spokane, Wash.

SHIPPED: 9-30-57, from Suffolk, Va.

LIBELED: 7-22-59, E. Dist. Wash.

CHARGE: 402(a)(3)—contained insects, insect-damaged nuts, and moldy nuts while held for sale.

DISPOSITION: 8-5-59. Consent—claimed by Powers Candy and Nut Co., Spokane, Wash. Segregated; 444 lbs. denatured.

26093. Shelled peanuts. (F.D.C. No. 43466. S. No. 22-741 P.)

QUANTITY: 20 120-lb. bags at Wichita, Kans., in possession of Nifty Nut House.

SHIPPED: 8-20-59, from LaVernia, Tex.

LIBELED: 10-7-59, Dist. Kans.

CHARGE: 402(a)(3)—contained insects, rodent excreta pellets, and rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 11-19-59. Default—delivered to a public institution for use as animal feed.

26094. Shelled peanuts. (F.D.C. No. 42964. S. No. 48-562 P.)

QUANTITY: 321 106-lb. bags at San Francisco, Calif.

SHIPPED: 3-21-59, from Gorman, Tex., by Gorman Peanut Co.

LABEL IN PART: "Spanish Splits Shelled Peanuts * * * Gorman Peanut Company, Gorman, Texas."

LIBELED: 4-3-59, N. Dist. Calif.

CHARGE: 402(a)(3)—contained insects and rodent excreta; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 5-8-59. Consent—claimed by Gorman Peanut Co. Segregated; 16 bags disposed of as animal feed.

26095. Shelled Spanish peanuts. (F.D.C. No. 43361. S. No. 47-204 P.)

QUANTITY: 240 125-lb. bags and 1 50-lb. bag at Chicago, Ill.

SHIPPED: 6-26-59, from Camilla, Ga.

LIBELED: 8-24-59, N. Dist. Ill.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 9-3-59. Consent—claimed by Camilla Cotton Oil Co., Camilla, Ga. Segregated; 725 lbs. disposed of for use other than for human consumption.

SPICES, FLAVORS, AND SEASONING MATERIALS

26096. Cassia bark. (F.D.C. No. 43463. S. No. 39-699 P.)

QUANTITY: 160 bags, 21,924 lbs. total, at San Francisco, Calif.

SHIPPED: 5-31-59, from Singapore.

LIBELED: 10-6-59, N. Dist. Calif.

CHARGE: 402(a)(3)—contained insects, insect excreta, insect webbing, and mold when shipped.

DISPOSITION: 10-19-59. Consent—claimed by McClintock-Stern Co., Inc., San Francisco, Calif. Segregated; 674 lbs. denatured.

26097. Salad dressing (2 seizure actions). (F.D.C. Nos. 43440, 43441. S. Nos. 52-013/4 P.)

QUANTITY: 29 4-gal. cans at Minneapolis, Minn., and 31 4-gal. cans at Stillwater, Minn.

SHIPPED: 10-17-58 and 10-23-58, from Streator, Ill.

LIBELED: 9-4-59 and 9-8-59, Dist. Minn.

CHARGE: 402(a)(3)—contained a decomposed substance while held for sale.

DISPOSITION: 11-9-59. Default—destruction.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE*

26098. Vitamin and mineral tablets. (F.D.C. No. 43358. S. No. 79-722 P.)

QUANTITY: 17 cases, 36 cartoned 200-tablet btls. each, at Battle Creek, Mich.

SHIPPED: 5-7-59, from Easthampton, Mass., by Stanley Home Products, Inc.

LABEL IN PART: (Btl. & ctn.) "Stanley Senior Vitamins and Minerals A Diet Supplement for those 50 and Over 200 Tablets Stanley Home Products, Inc. Westfield, Mass. Distributors."

ACCOMPANYING LABELING: (Leaflet in ctn.) "Why Vitamins?"

RESULTS OF INVESTIGATION: Examination showed that the article contained approximately 76 percent of the declared amount of vitamin A.

LIBELED: 8-21-59, W. Dist. Mich.

CHARGE: 402(b)(1)—while held for sale, the valuable constituent, vitamin A, had been in part omitted or abstracted from the article; and 403(a)—while held for sale, the label statement "Each two tablets contain: Vitamin A Acetate 500 USP Units" was false and misleading as applied to the article which contained less than that amount of vitamin A, and, when shipped, the accompanying leaflet contained representations and suggestions that the food supplies generally available were nutritionally deficient and inferior and lacked sufficient amounts of vitamins and minerals contained in the article; that the article included all the nutritional factors of the foods to which it was compared; and that the minimum daily requirement for niacinamide has not been established, which statements were false and misleading since they were contrary to fact.

*See also No. 26017.

DISPOSITION: 10-1-59. Default—delivered to a Federal institution.

26099. Formula #30 tablets and Calcimin tablets (vitamins). (F.D.C. No. 43147. S. Nos. 48-201 P, 63-692 P.)

QUANTITY: 1 20,000-tablet drum, and 1 40,000-tablet drum of Formula #30 tablets, and 1 2,000-tablet btl. of Calcimin tablets, at Lawrence, Mass.

SHIPPED: 3-24-59 and 4-28-59, from St. Louis, Mo.

RESULTS OF INVESTIGATION: Examination showed that the article contained approximately 60 percent of the declared amount of vitamin D.

LIBELED: 5-15-59, Dist. Mass.; libel amended, 6-9-59.

CHARGE: 402(b)(1)—while held for sale, the valuable constituent, vitamin D, had been in part omitted or abstracted from the article; and 403(a)—the label statement “Vitamin D 500 USP Units 125%” was false and misleading.

DISPOSITION: 7-28-59. Default—delivered to a public institution.

26100. Iron and vitamin tablets. (F.D.C. No. 43349. S. No. 55-056 P.)

QUANTITY: 1 bulk drum containing 55,000 tablets at Philadelphia, Pa.

SHIPPED: 4-3-58, from Auburn, Mass., by Cowley Pharmaceuticals, Inc.

LABEL IN PART: “73,500 Tablets Ferrous Sulfate, B-1, B-2, Nicotinic Acid Coated Tablets Green.”

RESULTS OF INVESTIGATION: Examination showed that the article contained less than the declared amounts of vitamin B₁ (63 percent deficient) and nicotinic acid (73 percent deficient).

LIBELED: 8-18-59, E. Dist. Pa.

CHARGE: 402(b)(1)—when shipped, valuable constituents, namely, nicotinic acid and vitamin B₁, had been in part omitted or abstracted from the article; and 403(a)—the label statements “* * * Each tablet contains: * * * Nicotinic Acid 5 mg.,” “* * * Thiamin HCL 1.0 mg.” and “* * * One tablet a day supplies * * * the Minimum Daily Requirement of Vitamin B-1 * * *” were false and misleading.

DISPOSITION: 11-4-59. Default—destruction.

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solids, dried, canned -----	26052	Potatoes, canned -----	26078
Feeds and grains -----	26053-26056	Poultry. <i>See</i> Meat products and	
Fish and shellfish -----	26057-26072	poultry.	
Flour -----	26005-26014, 26032	Rice -----	26005,
Formula #30 tablets -----	26099		26022-26026, 26033
Fruits and vegetables -----	26073-26085	Roll mix -----	26032
fruit, dried -----	26073	Rye meal -----	26032
frozen -----	26074, 26075	Salad dressing -----	26097
miscellaneous fruit product -----	26076	Salmon, frozen -----	26066
jams -----	26077	Sheep pellets -----	26056
tomatoes and tomato prod-		Shellfish. <i>See</i> Fish and shellfish.	
ucts ----- ¹	26082-26085	Spaghetti. <i>See</i> Macaroni and	
vegetables and vegetable prod-		noodle products.	
ucts -----	26078-26081	Spices, flavors, and seasoning	
Grits -----	26033	materials -----	26096, 26097
Jam, boysenberry -----	26077	Spinach, fresh -----	26079
red raspberry -----	26077	Sturgeon, frozen -----	26061
Lobster tails, frozen -----	26071, 26072	Succotash, canned -----	26080
Macaroni and noodle prod-		Sugar -----	26041
ucts -----	26015-26017	dextrose -----	26042
Meal, rye -----	26032	Tomato(es), canned ----- ¹	26082, 26083
Meat products and poultry -----	26086-26089	catsup -----	26084
Milk, skim, evaporated -----	26045	sauce -----	26085
Mix, batter -----	26030	Turkeys. <i>See</i> Meat products	
biscuit -----	26031	and poultry.	
breeding -----	26030	Vegetables. <i>See</i> Fruits and veg-	
cake -----	26021	etables.	
corn muffin -----	26031	Vitamin, mineral, and other	
roll -----	26032	products of special dietary	
Noodles. <i>See</i> Macaroni and		significance -----	26017, 26098-26100
noodle products.		Whale meat, frozen -----	26067
Nuts -----	26090-26095	Wheat -----	26027-26029
Oats and wheat combined -----	26054	Whitefish, dressed, fresh -----	26057
Olives -----	26081	frozen -----	26058
Orange juice -----	26076	Whiting, dressed -----	26059
Oysters -----	26069, 26070		

¹ (26046, 26082) Injunction issued.

SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS

Acworth, M. W., & Son, Inc.:	N.J. No.	Central Farm Products Co.:	N.J. No.
canned tomatoes-----	26083	butter-----	26044
Alghini, Reno:		Chelsea Milling Co.:	
egg noodles, macaroni, and		biscuit mix and corn muffin	
spaghetti products-----	26016	mix-----	26031
Allied Bakers Supply, Inc.:		Chicago Macaroni & Food Prod-	
rye meal, flour, and roll mix--	26032	ucts Co., Inc.:	
American Cereal-Coffee Co.:		egg noodles, macaroni, and	
pea meal-----	26034	spaghetti products-----	26016
American Stores Co.:		Clark, H. E.:	
tomato catsup-----	26084	alfalfa meal-----	26053
American Warehouse Co.:		Clark, H. E., Co. <i>See</i> Clark,	
rice -----	26025	H. E.	
Andersen, E. B.:		Columbus Terminal Warehouse	
fresh spinach-----	26079	Co.:	
Andersen, E. B., Packing Co.:		rice -----	26026
fresh spinach-----	26079	Condie's, (Mrs.), Salad Co.:	
Ashtabula Poultry Co. <i>See</i> Bush,		fresh spinach-----	26079
A. A.		Consolidated Companies, Inc.:	
Beechwood Farms:		flour -----	26009
dressed turkeys-----	26089	Contic, Phillip, Jr.:	
Beeland Wholesale Co., Inc.:		bread and rolls-----	26004
flour -----	26010	Contic, Richard:	
Blevins Popcorn Co.:		bread and rolls-----	26004
unpopped popcorn-----	26018	Cowart, S. L.:	
Boats. <i>See</i> Gaelano S, Mary &		oysters -----	26070
Joan, Regina Maria, Win-		Cowley Pharmaceuticals, Inc.:	
chester, and Wisconsin.		iron and vitamin tablets-----	26100
Bond Stores, Inc.:		Dannen Mills, Inc.:	
flour -----	26008	sheep pellets-----	26056
Booth, A. J.:		Defiance Milk Products Co.:	
oysters -----	26069	evaporated skim milk-----	26045
Braun, J. F., & Sons:		Delicious Food Products:	
cocoa powder-----	26037	tomato sauce-----	26085
Brown, A. P.:		Delmonico Foods, Inc.:	
evaporated apples-----	26073	macaroni -----	26015
Brown, J. F.:		Denmark Compex Corp.:	
flour -----	26006	cocoa powder-----	26036
Brown Milling Co. <i>See</i> Brown,		Dixie Preserves, Ltd.:	
J. F.		boysenberry jam and red rasp-	
Bush, A. A.:		berry jam-----	26077
frozen eggs-----	26050	Elgin Sales Co., Inc.:	
C & E Cannery, Inc.:		carbonated beverages-----	26001
tomato catsup-----	26084	Equity Cooperative Association:	
Cagle's, Inc.:		wheat -----	26028
dressed poultry-----	26087	Farmers Cooperative Elevator	
Canadian Fish Producers, Ltd.:		Co.:	
dressed fresh whitefish-----	26057	oats and wheat combined-----	26054
frozen whitefish-----	26058		

First National Stores, Inc.:	N.J. No.	Mary & Joan (boats):	N.J. No.
orange juice-----	26076	frozen cod fillets-----	26064
Fresh Vegetable Package Co.:		Matalone, J. S.:	
fresh spinach-----	26079	egg noodles, macaroni, and	
Gaetano S (boat):		spaghetti products-----	26016
frozen ocean perch fillets-----	26063	Modern Egg Co.:	
Gorman Peanut Co.:		frozen egg product-----	26048
shelled peanuts-----	26094	Modern Egg Products, Inc.:	
Gottschalk Cranberry Co.:		frozen eggs-----	26047
frozen cranberries-----	26075	Molt Farmers Elevator Co.:	
Graber, V. C., Produce:		wheat-----	26027
frozen eggs-----	26051	National Cargo Salvage Co.:	
Graves, J. S., Jr.:		canned dried egg solids-----	26052
crabmeat-----	26068	Newton, J. T., Jr.:	
Grisez, John F., Co.:		grits and rice-----	26033
rice-----	26023	Nifty Nut House:	
Hollister Canning Co.:		shelled peanuts-----	26093
tomato sauce-----	26085	North Atlantic Fish Co., Inc.:	
Interocean Chemical & Minerals		dressed whiting-----	26059
Corp.:		Norris Candy Co. <i>See</i> Peachtree	
frozen whale meat-----	26067	Candy Co.	
Irvin, Crawford:		Northwest Confections, Inc.:	
incubator reject eggs-----	¹ 26046	burgundy mix candy-----	26039
James, W. I.:		Peachtree Candy Co., Div. Norris	
canned tomatoes-----	¹ 26082	Candy Co.:	
James & James. <i>See</i> James,		candy-----	26038
W. I.		Pennsylvania Railroad Co.:	
Japan Export Frozen Marine		sugar-----	26041
Products Inspection Corp.:		Piggly Wiggly Wholesale, Inc.:	
frozen whale meat-----	26067	grits and rice-----	26033
Kelso Warehouses, Inc.:		R & R Sales:	
batter mix and breeding mix--	26030	dextrose sugar-----	26042
Kentucky Bakery, Inc.:		Red Owl Stores, Inc.:	
bread-----	26003	burgundy mix candy-----	26039
Kingwood Baking Co.:		chocolate-coated peanuts-----	26040
bread and rolls-----	26004	Reese of California, Inc.:	
Knoebel Mercantile Co.:		soluble coffee-----	26002
flour, rice, and almonds-----	26005	Regina Maria (boat):	
Kozloff, J., Fish Distributors,		frozen cod fillets-----	26064
Inc.:		Richardson, B., Canning Co.:	
frozen whitefish-----	26058	evaporated apples-----	26073
LoConte, Musolino, Co.:		Rockport Grain Co.:	
macaroni and spaghetti prod-		shelled corn-----	26055
ucts-----	26017	Rudolph, L., & Co.:	
Louque, R. J.:		frozen eggs-----	26047
flour-----	26009	San Martin Foods Co.:	
Louisiana Specialty Co. <i>See</i>		macaroni and spaghetti prod-	
Consolidated Companies, Inc.		ucts-----	26017
Lusitania Baking Co.:		Schaub, G. W.:	
flour-----	26013	rye meal, flour, and roll mix--	26032
Marshall Produce Co.:		Schulze, Paul A., Co.:	
canned dried egg solids-----	26052	butter-----	26043

¹(26046, 26082) Injunction issued.

	N.J. No.		N.J. No.
Silzle, E. A., Corp.:		Wahle, John:	
orange juice-----	26076	wheat-----	26029
Spatola-Thompson, Inc.:		Wahle, Mayme:	
canned tomatoes-----	26083	wheat-----	26029
Spice Club Foods, Inc.:		Waite Fisheries, Ltd.:	
soluble coffee-----	26002	frozen whitefish-----	26058
Stanley Home Products, Inc.:		Winchester (boat):	
vitamin and mineral tablets---	26098	frozen cod fillets-----	26064
Steele, J. F.:		Wisconsin (boat):	
flour -----	26010	frozen cod fillets-----	26064
Stephens Grocer Co.:		Wolfe, F. R.:	
flour -----	26012	bread -----	26003
Utah Wholesale Grocery Co.:		Wooster Cooperative Poultry As-	
rice -----	26022	sociation:	
Veronica Olive Oil Co.:		frozen eggs-----	26049
tomato sauce-----	26085	Wyoming Distributing Co.:	
Viva Stone Flour Mills, Inc.:		flour -----	26011
flour -----	26007		

U.S. Department of Health, Education, and Welfare

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

26101-26200

FOODS

LIBRARY

CURRENT SERIAL RECORD

JUN 15 1960

U. S. DEPARTMENT OF AGRICULTURE

The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were adulterated or misbranded within the meaning of the Act when introduced into and while in interstate commerce, when shipped to a holder of a guaranty, or while held for sale after shipment in interstate commerce. These cases involve (1) seizure proceedings in which decrees of condemnation were entered by default, or by consent, and (2) criminal proceedings which were terminated upon pleas of guilty or nolo contendere, or upon a finding of guilty. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the criminal proceedings are against the *firms* or *individuals* charged to be responsible for violations.

Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D.C., May 18, 1960.

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SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN VIOLATIONS
REPORTED IN F.N.J. NOS. 26101-26200

Adulteration, Section 402(a) (2), the article, in two cases, contained an added poisonous or deleterious substance which was unsafe within the meaning of Section 406, and, in seven cases, the article was a raw agricultural commodity and contained a pesticide chemical which was unsafe within the meaning of Section 408(a); Section 402(a) (3), the article consisted in part of a filthy or decomposed substance, or it was otherwise unfit for food; Section 402(a) (4), the article had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth; Section 402 (b) (1), a valuable constituent had been in whole or in part omitted or abstracted from the article; Section 402(b) (4), a substance had been added to the article or mixed or packed therewith so as to reduce its quality or make it appear of better quality than it was; Section 406(a), a poisonous or deleterious substance was added to food when such substance was not required in the production thereof and could have been avoided by good manufacturing practice; and Section 408(a), a poisonous or deleterious pesticide chemical, or a pesticide chemical which is not generally recognized among experts qualified by scientific training and experience to evaluate the safety of pesticide chemicals, as safe for use, had been added to a raw agricultural commodity; and no tolerance or exemption from the requirement of a tolerance for such pesticide chemical in or on the raw agricultural commodity had been prescribed by the Secretary of Health, Education, and Welfare; or such tolerance had been prescribed, and the quantity of the pesticide chemical was in excess of the tolerance.

Misbranding, Section 403(a), the labeling of the article was false and misleading; Section 403(d), the container of the article was filled so as to be misleading; Section 403(e), the article was in package form, and it failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor, and (2) an accurate statement of the quantity of contents in terms of weight; Section 403(f), a word, statement, or other information required by the Act to appear on the label of the article was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; Section 403(g) (1), the article purported to be and was represented as a food for which a definition and standard of identity had been prescribed by regulation, and it failed to conform to such definition and standard; Section 403(i) (1), the article was not subject to the provisions of Section 403(g) and its label failed to bear the common or usual name of the food.

CEREALS AND CEREAL PRODUCTS

CORNMEAL*

26101. Enriched cornmeal. (F.D.C. No. 43209. S. No. 50-281 P.)

INFORMATION FILED: 7-17-59, W. Dist. Ky., against Murphy Grain & Milling Co., Inc., Owensboro, Ky., and Joseph A. Murphy and Frank X. Murphy, Jr., vice presidents of the corporation.

SHIPPED: 1-7-59, from Kentucky to Indiana.

LABEL IN PART: (Bag) "2 Lbs. Net Self-Rising Indian Head Enriched Degenerated Corn Meal."

*See also Nos. 26107, 26111.

CHARGE: 402(b) (1)—the valuable constituents, thiamine, riboflavin, iron, and niacin, had been in part omitted and abstracted from the article; 403(a)—the label statement “8 ounces of this product contain the following percentages of the adult minimum daily requirements: Vitamin B₁ 100%, Riboflavin 30%, Iron 65%, and 8 mgs. of Niacin” was false and misleading since 8 ounces of the article contained less than the stated proportions of the minimum daily requirements of the body for vitamin B₁, riboflavin, and iron, and less than 8 milligrams of niacin; and 403(g) (1)—the article failed to conform to the definition and standard of identity for enriched cornmeal since it contained per pound less than 2.0 milligrams of thiamine (vitamin B₁), less than 1.2 milligrams of riboflavin, less than 13 milligrams of iron, and less than 16 milligrams of niacin.

PLEA: Nolo contendere.

DISPOSITION: 9-14-59. Corporation fined \$500; each individual fined \$200, which fine was suspended on condition that the individuals not violate the law for 6 months.

26102. Cornmeal and flour. (F.D.C. No. 43862. S. Nos. 75-841/2 P.)

QUANTITY: 187 25-lb. bags of cornmeal and 74 25-lb. bags of flour at Batesville, Ark., in possession of J. B. Kramer Candy Co.

SHIPPED: 6-10-59 and 8-29-59, from Salina, Kans., and St. Joseph, Mo.

LIBELED: 12-4-59, E. Dist. Ark.

CHARGE: 402(a) (3)—cornmeal contained rodent urine and rodent excreta pellets and flour contained insects; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 1-20-60. Default—delivered to a charitable institution for use as animal feed.

FLOUR*

26103. Flour. (F.D.C. No. 43369. S. No. 64-148 P.)

QUANTITY: 888 100-lb. bags at Boston, Mass.

SHIPPED: 7-6-59, from Alton, Ill.

LIBELED: 8-26-59, Dist. Mass.

CHARGE: 402(a) (3)—contained insects and insect parts while held for sale.

DISPOSITION: 9-3-59. Consent—claimed by Russell-Miller Milling Co., Minneapolis, Minn. Segregated; 601 100-lb. bags denatured and sold for animal feed.

26104. Flour, Donut mix, bread, and emulsifier. (F.D.C. No. 43204. S. Nos. 15-443/6 P, 15-451 P, 17-688 P.)

INFORMATION FILED: 7-8-59, S. Dist. Ohio, against Milillo Baking Co., Inc., Hamilton, Ohio, and Frank M. Milillo, president.

ALLEGED VIOLATION: Between 6-3-58 and 8-15-58, while quantities of flour, Donut mix, and emulsifier were being held for sale after shipment in interstate commerce, the defendants caused such articles to be held in a building that was accessible to rodents and insects and to be exposed to contamination by rodents and insects, which acts resulted in the articles being adulterated.

Between 7-29-58 and 3-11-59, the defendants caused to be shipped from Ohio to Kentucky loaves of bread which were adulterated.

*See also No. 26102.

LABEL IN PART: (Band encircling loaf of bread) "Ole Style White Enriched Bread Milillo Baking Co., Hamilton, Ohio Wt. 16 Ozs. Or Over" or "Tender Krust."

CHARGE: 402(a)(3)—the flour, Donut mix, and emulsifier contained insects, insect fragments, rodent excreta pellets, and rodent hairs, and the bread contained rodent hairs and insect fragments; 402(a)(4)—the flour, Donut mix, and emulsifier were held under insanitary conditions; and the bread was prepared under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 7-17-59. Corporation—\$1,500 fine; individual—\$600 fine.

26105. Wheat flour with bran. (F.D.C. No. 43341. S. No. 57-045 P.)

QUANTITY: 12 100-lb. bags at Jacksonville, Fla., in possession of Southern Bakeries Co.

SHIPPED: 6-29-59, from Winona, Minn.

LIBELED: 8-10-59, S. Dist. Fla.

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 8-19-59. Consent—destruction.

26106. Flour, poppyseed, caraway seed. (F.D.C. No. 43371. S. Nos. 57-994/6 P.)

QUANTITY: 12 100-lb. bags of flour, 43 110-lb. bags of poppyseed, and 12 110-lb. bags of caraway seed, at Perth Amboy, N.J.

SHIPPED: Between 1957 and 5-20-59, from New York and Brooklyn, N.Y., and Kansas City, Mo.

LIBELED: 9-3-59, Dist. N.J.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 10-13-59. Default—destruction.

26107. Flour and cornmeal. (F.D.C. No. 43522. S. Nos. 70-272 P, 70-275 P, 70-277/81 P.)

QUANTITY: 67 10-lb. bags, 3,749 5-lb. bags, and 4,389 2-lb. bags of flour, and 49 5-lb. bags of cornmeal, at Chester, Pa., in possession of Chester Wholesale Grocery Co., Inc.

SHIPPED: Between 2-28-59 and 8-5-59, from Minneapolis, Minn., Chicago, Ill., Kansas City, Mo., and Washington, D.C.

LIBELED: 9-8-59, E. Dist. Pa.

CHARGE: 402(a)(3)—a portion of the articles contained insects; and 402(a)(4)—all of the articles were held under insanitary conditions.

DISPOSITION: 10-27-59. Consent—claimed by Chester Wholesale Grocery Co., Inc. Segregation proved to be unsuccessful and the article was destroyed.

26108. Donut flour. (F.D.C. No. 43787. S. No. 66-095 P.)

QUANTITY: 75 100-lb. bags at Syracuse, N.Y., in possession of Seaboard Allied Milling Corp.

SHIPPED: 5-8-59, from Chicago, Ill.

LIBELED: 11-2-59, N. Dist. N.Y.

CHARGE: 402(a)(3)—contained insects and insect larvae; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 12-11-59. Default—destruction.

26109. Flour. (F.D.C. No. 43574. S. No. 58-011 P.)

QUANTITY: 25 100-lb. bags at New Brunswick, N.J.

SHIPPED: 7-22-59, from Buffalo, N.Y.

LIBELED: 10-2-59, Dist. N.J.

CHARGE: 402(a)(3)—contained insects and insect larvae while held for sale.

DISPOSITION: 11-6-59. Default—destruction.

26110. Flour. (F.D.C. No. 43479. S. No. 80-219 P.)

QUANTITY: 28 100-lb. bags at Cleveland, Ohio.

SHIPPED: 6-10-59, from Winona, Minn.

LIBELED: 10-14-59, N. Dist. Ohio.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 11-12-59. Default—destruction.

26111. Flour and cornmeal. (F.D.C. No. 43777. S. Nos. 76-516/8 P.)

QUANTITY: 18 bales, 10 5-lb. bags each, of flour, and 87 25-lb. bags of cornmeal, at Little Rock, Ark.

SHIPPED: Between 4-29-59 and 7-23-59, from Denton, Tex., and Memphis, Tenn.

LIBELED: 10-26-59, E. Dist. Ark.

CHARGE: 402(a)(3)—contained insects, insect larvae, and insect fragments while held for sale.

DISPOSITION: 11-17-59. Default—delivered to a charitable institution for use as animal feed.

26112. Flour. (F.D.C. No. 43062. S. No. 47-368 P.)

INFORMATION FILED: 4-30-59, Dist. Mass., against South Shore Baking Co., Inc., t/a Morton Bake Shop, Mattapan (Boston), Mass., and Julian Oberstein, president and treasurer of the corporation.

ALLEGED VIOLATION: Between 11-12-58 and 11-26-58, the defendants caused a quantity of flour, while held for sale after shipment in interstate commerce, to be held in a building that was accessible to insects and to be exposed to contamination by insects, which act resulted in the article being adulterated.

CHARGE: 402(a)(3)—contained insects and insect parts; and 402(a)(4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 11-17-59. Corporation fined \$200; individual placed on probation for 1 year.

26113. Flour. (F.D.C. No. 43658. S. Nos. 68-151/3 P.)

QUANTITY: 188 100-lb. bags at Camden, N.J.

SHIPPED: Between 11-5-58 and 1-21-59, from Philadelphia, Pa., and Minneapolis, Minn.

LIBELED: 11-12-59, Dist. N.J.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 1-5-60. Default—delivered to a public institution for use as animal feed.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS*

26114. Rice. (F.D.C. No. 43785. S. Nos. 79-910/11 P.)

QUANTITY: 50 25-lb. bags and 8 100-lb. bags at Toledo, Ohio.

SHIPPED: 10-29-58 and 1-22-59, from Memphis, Tenn.

LIBELED: 10-29-59, N. Dist. Ohio.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 11-25-59. Default—destruction.

26115. Rice. (F.D.C. No. 44167. S. No. 63-213 P.)

QUANTITY: 4 100-lb. bags and 70 25-lb. bags at Chicago, Ill., in possession of Excel Bonded Warehouse, Inc.

SHIPPED: 9-30-59, from Jonesboro, Ark.

LIBELED: 1-7-60, N. Dist. Ill.

CHARGE: 402(a)(3)—contained rodent excreta and rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 2-8-60. Default—destruction.

26116. Rice. (F.D.C. No. 43929. S. Nos. 57-149 P, 57-151 P.)

QUANTITY: 46 100-lb. bags at Charleston Heights, S.C.

SHIPPED: 7-3-59 and 8-25-59, from Mobile, Ala.

LIBELED: 12-5-59, E. Dist. S.C.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 1-2-60. Default—destruction.

26117. Rice. (F.D.C. No. 43843. S. No. 53-470 P.)

QUANTITY: 39 100-lb. bags at Los Angeles, Calif., in possession of Kwong Dack Wo Co.

SHIPPED: 9-29-59, from Beaumont, Tex.

LIBELED: 12-1-59, S. Dist. Calif.

CHARGE: 402(a)(3)—contained insects and insect excreta; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 12-22-59. Default—destruction.

26118. Rice. (F.D.C. No. 43438. S. Nos. 38-758/9 P.)

QUANTITY: 76 100-lb. bags at St. Louis, Mo., in possession of Central Warehouse Co.

SHIPPED: 12-4-58 and 2-16-59, from Stuttgart, Ark.

LIBELED: On or about 9-3-59, E. Dist. Mo.

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 10-12-59. Default—destruction.

*See also No. 26187.

26119. Rice. (F.D.C. No. 43784. S. No. 53-358 P.)

QUANTITY: 54 100-lb. bags at Los Angeles, Calif.

SHIPPED: 5-1-59, from Stuttgart, Ark.

LIBELED: 10-30-59, S. Dist. Calif.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 12-16-59. Default—destruction.

26120. Rice. (F.D.C. No. 43552. S. Nos. 54-068/9 P, 54-511/14 P, 76-213/14 P, 76-465 P.)

QUANTITY: 50 100-lb. bags, 113 25-lb. bags, 72 25-lb. bags, 42 100-lb. bags, and 44 cases, 30 1-lb. pkgs. each, at St. Louis, Mo.

SHIPPED: 8-3-59 and 8-21-59, from Weiner, Ark., by Roberts Rice Mills, Inc.

LABEL IN PART: (Bag) "Zenith Rice Roberts Rice Milling Co. Crowley La., Weiner Ark." and "Long Grain [or "Zenith"] * * * Rice Milled for Perry Smith and Hart St. Louis, Mo." and (pkg.) "Dinette * * * White Rice Packed for St. Louis Rice Co."

LIBELED: 9-22-59, E. Dist. Mo.

CHARGE: 402(a)(3)—(50 100-lb. bags, 113 25-lb. bags & 44 cases) when shipped, contained insects, insect fragments, and insect excreta; and (72 25-lb. bags, & 42 100-lb. bags) while held for sale contained insects.

DISPOSITION: 10-6-59. Consent—claimed by Frank A. Hart, t/a Perry, Smith & Hart, St. Louis, Mo. Segregated; 887 lbs. denatured for use as animal feed.

26121. Rice. (F.D.C. No. 43474. S. No. 25-574 P.)

QUANTITY: 7 100-lb. bags and 6 25-lb. bags at Grand Forks, N. Dak.

SHIPPED: 2-2-59 and 6-5-59, from Minneapolis, Minn.

LIBELED: 10-9-59, Dist. N. Dak.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 12-4-59. Default—destruction.

26122. Rice and flour. (F.D.C. No. 43631. S. Nos. 72-212/3 P.)

QUANTITY: 77 25-lb. bags of rice and 19 50-lb. bags of flour at Jacksonville, Fla., in possession of Joseph's Imported Foods.

SHIPPED: 10-2-59 and 10-6-59, from Chattanooga, Tenn., and Houston, Tex.

LIBELED: 11-5-59, S. Dist. Fla.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 11-30-59. Default—destruction.

26123. Rice, cookies, and cornbread mix. (F.D.C. No. 43338. S. Nos. 72-021/4 P.)

QUANTITY: 31 bales, 20 3-lb. bags each, of rice; 10 cases, 12 2-lb. bags each, of cookies; and 7 cases, 24 20¾-oz. pkgs. each, of cornbread mix; at Monroe, N.C., in possession of McCray Wholesale Grocery Co.

SHIPPED: Between 3-7-58 and 3-12-59, from Texas, Louisiana, Tennessee, and Kentucky.

LIBELED: 8-10-59, W. Dist. N.C.

CHARGE: 402(a)(3)—all of the articles contained insects; the rice also contained rodent urine and rodent excreta pellets; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 9-4-59. Default—destruction.

26124. Wheat. (F.D.C. No. 43384. S. No. 76-594 P.)

QUANTITY: 107,260 lbs. at Yardley, Wash.

SHIPPED: 6-22-59, from Hardin, Mont., by Campbell Farming Corp.

LIBELED: 7-7-59, E. Dist. Wash.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 7-20-59. Consent—claimed by Atwood-Larson Co., Inc. Segregated; 5,410 lbs. converted into animal feed.

26125. Wheat. (F.D.C. No. 43414. S. No. 76-901 P.)

QUANTITY: 120,000 lbs. at Spokane, Wash.

SHIPPED: 7-17-59, from Hardin, Mont., by Occident Elevator.

LIBELED: 7-30-59, E. Dist. Wash.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 8-24-59. Consent—claimed by W. R. Glover, t/a Glover Grain Co. Segregated; 21,980 lbs. converted into animal feed.

26126. Wheat. (F.D.C. No. 43402. S. No. 49-630 P.)

QUANTITY: 82,200 lbs. at Spokane, Wash.

SHIPPED: 7-3-59, from Frazer, Mont., by Equity Cooperative Association.

LIBELED: 7-21-59, E. Dist. Wash.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 7-29-59. Consent—claimed by Atwood-Larson Co., Inc. Segregated; 12,820 lbs. converted into animal feed.

26127. Unpopped popcorn. (F.D.C. No. 44145. S. No. 90-568 P.)

QUANTITY: 43 100-lb. bags at Portland, Maine.

SHIPPED: 11-13-59, from Chicago, Ill.

LIBELED: 12-30-59, Dist. Maine.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 1-13-60. Default—delivered to a public institution for use as animal feed.

26128. Unpopped popcorn. (F.D.C. No. 43382. S. Nos. 52-101 P, 52-725 P.)

QUANTITY: 479 50-lb. bags at Minneapolis, Minn.

SHIPPED: 3-26-59 and 5-21-59, from Lake View, Iowa, by Manley, Inc.

LABEL IN PART: "Supreme * * * Manleys Best * * * Jumbo Popcorn * * * Manley Inc. Kansas City Mo."

LIBELED: 7-1-59, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent urine and rodent-gnawed kernels when shipped; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 8-21-59. Consent—claimed by Manley, Inc., Kansas City, Mo. Segregated; 2,560 lbs. ground into animal feed and 5 lbs. destroyed.

26129. Unpopped popcorn. (F.D.C. No. 44013. S. Nos. 53-675/6 P.)

QUANTITY: 141 cases, 12 bags each, at Los Angeles, Calif.

SHIPPED: 9-15-58, from Lawrence, Kans.

LIBELED: 1-7-60, S. Dist. Calif.

CHARGE: 402(a)(3)—contained insects and insect-damaged kernels while held for sale.

DISPOSITION: 1-26-60. Default—destruction.

26130. Unpopped popcorn. (F.D.C. No. 43818. S. No. 83-474 P.)

QUANTITY: 26,000 lbs. at Atchison, Kans.

SHIPPED: 10-23-59, from Rockport, Mo., by George Opp.

LIBELED: 12-4-59, Dist. Kans.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 12-31-59. Consent—claimed by Ed F. Mangelsdorf & Bro., Inc., St. Louis, Mo., and converted into animal feed.

26131. Unpopped popcorn. (F.D.C. No. 43629. S. Nos. 46-436/7 P.)

QUANTITY: 550 cases, 24 cans each, at Richland Hills, Tex.

SHIPPED: 9-21-59, from Hugo, Okla., by Red River Valley Popcorn Co.

LABEL IN PART: (Can) "White Swan Brand Pop Corn * * * Net Weight 10 Oz. Select Yellow Hybrid Distributed by Waples-Platter Company * * * Fort Worth, Texas."

RESULTS OF INVESTIGATION: Examination showed that the article was short weight.

LIBELED: 11-6-59, N. Dist. Tex.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of the contents.

DISPOSITION: 11-24-59. Consent—claimed by Red River Valley Popcorn Co., and repacked.

26132. Unpopped popcorn. (F.D.C. No. 43901. S. No. 63-911 P.)

QUANTITY: 101 100-lb. bags at East Cambridge, Mass.

SHIPPED: 8-5-59 and 8-29-59, from Lawrence, Kans.

LIBELED: 11-13-59, Dist. Mass.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 1-25-60. Default—destruction.

26133. Corn grits. (F.D.C. No. 43800. S. Nos. 66-465/6 P.)

QUANTITY: 200,000 lbs. at Buffalo, N.Y.

SHIPPED: 10-1-59 and 10-6-59, from Danville, Ill.

LIBELED: 11-5-59, W. Dist. N.Y.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 11-25-59. Consent—claimed by David H. Patton, Dearborn, Mich., and converted into animal feed.

26134. Raisin bran muffin mix, protein flakes (cereal), whole wheat flakes (cereal), and corn muffin mix. (F.D.C. No. 42419. S. Nos. 25-265 P, 25-269 P, 25-275 P, 27-505 P.)

INFORMATION FILED: 8-17-59, N. Dist. Iowa, against Horace E. Brickner, t/a S. E. Brickner & Son, Decorah, Iowa.

ALLEGED VIOLATION: Between 9-9-58 and 10-9-58, the defendant caused quantities of the above named products, while held for sale after shipment in interstate commerce, to be held in a building that was accessible to rodents, insects, and birds, and to be exposed to contamination by rodents, insects, and birds, which acts resulted in such products being adulterated.

CHARGE: 402(a) (3)—contained insects; and 402(a) (4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 8-17-59. \$600 fine.

26135. Bread mix, unpopped popcorn, and dried navy beans. (F.D.C. No. 43105. S. Nos. 17-499 P, 17-527/8 P.)

INFORMATION FILED: 8-3-59, N. Dist. Ohio, against David Kirk Sons Co., a corporation, Findlay, Ohio, and Robert W. Kirk, president.

ALLEGED VIOLATION: Between 10-25-56 and 1-16-59, the defendants caused quantities of the above-mentioned products, while held for sale after shipment in interstate commerce, to be held in a building accessible to rodents and insects, and to be exposed to contamination by rodents and insects, which acts resulted in the products being adulterated.

CHARGE: 402(a) (3)—the bread mix and the unpopped popcorn contained live and dead insects; and 402(a) (4)—all products were held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 8-14-59. Fine of \$1,500 against the corporation; \$300 against the individual.

DAIRY PRODUCTS

BUTTER

26136. Butter. (F.D.C. No. 40833. S. Nos. 37-142 P, 37-144/6 P.)

QUANTITY: 90 65-lb. cubes at St. Louis, Mo.

SHIPPED: A number of cans of cream were shipped between 7-25-58 and 7-27-58, from Arkansas, Illinois, Indiana, Kentucky, Mississippi, and Tennessee.

RESULTS OF INVESTIGATION: Examination showed that the cream was used in the manufacture of the butter under seizure.

LIBELED: 8-14-58, E. Dist. Mo.

CHARGE: 402(a) (3)—contained a decomposed substance when shipped.

DISPOSITION: 8-26-58. Consent—claimed by Paul A. Schulze Co., St. Louis, Mo., and converted into butter oil.

MILK

26137. Nonfat dry milk. (F.D.C. No. 44150. S. No. 56-754 P.)

QUANTITY: 75 ctns., 24 6½-oz. boxes each, at Carrollton, Ga.

SHIPPED: 10-2-59, from Birmingham, Ala.

LIBELED: 12-29-59, N. Dist. Ga.

CHARGE: 402(a) (3)—while held for sale, the article was unfit for food by reason of the presence therein of an unpleasant odor and unpalatable flavor; and 402(b) (2)—a substance containing an odor and flavor foreign to nonfat dry milk, as defined by law, had been substituted for nonfat dry milk.

DISPOSITION: 2-8-60. Default—destruction.

EGGS

26138. Frozen eggs. (F.D.C. No. 42544. S. No. 14-442 P.)

QUANTITY: 500 30-lb. cans at Chicago, Ill.

SHIPPED: 7-30-58, from Wilton, Wis., by Tillman Produce Co.

LABEL IN PART: "Whole Eggs Packed by Tillman Produce Co., Wilton, Wis."

LIBELED: 12-3-58, N. Dist. Ill.

CHARGE: 402(a) (3)—contained decomposed eggs when shipped.

DISPOSITION: 2-13-59. Consent—claimed by Tillman Produce Co. Segregated; 20 cans denatured.

26139. Frozen eggs. (F.D.C. No. 39960. S. No. 56-019 M.)

INFORMATION FILED: 4-5-57, M. Dist. Tenn., against Quality Egg Products, Inc., Nashville, Tenn., and Seymour M. Levin.

SHIPPED: 8-27-56, from Tennessee to Illinois.

LABEL IN PART: (Can) "Whole Egg Quality Egg Products Nashville, Tenn. 30 lbs. net Wt."

CHARGE: 402(a) (3)—contained decomposed eggs.

PLEA: Not guilty.

DISPOSITION: On 11-29-57, the case came on for trial before the court without a jury. The trial was concluded on the same day. The court found the defendants guilty and imposed a fine of \$750 against Defendant Levin. No fine was imposed against the corporation since it was defunct.

The case was appealed to the United States Court of Appeals for the Sixth Circuit and on 10-21-58, the following opinion was handed down by that court:

MILLER, Circuit Judge:

"The United States by Criminal Information charged appellants with unlawfully introducing into interstate commerce a number of cans containing frozen whole eggs which were adulterated within the meaning of 21 U.S.C. 342(a) (3), in violation of the provisions of 21 U.S.C. 331 and 333. Following a trial before the District Judge, a trial by jury having been waived, the appellants were found guilty. Appellant Levin received a fine of \$750.00.

"Whether the eggs were adulterated within the meaning of the statute was a factual issue, depending to a large extent upon conclusions to be drawn from the conditions under which they were transported and the condition of the eggs upon their arrival at their destination, about which there was some dispute. Appellants contend that the evidence did not prove beyond a reasonable doubt this factual issue decided against them.

"Viewing the evidence with inferences reasonably and justifiably to be drawn therefrom, most favorable to the Government, we are of the opinion that the finding of the District Judge is supported by substantial and competent evidence. *Batties v. United States*, 172 F(2)1, 4-5-. C.A. 6th, and, accordingly,

"IT IS ORDERED that the judgment be affirmed."

FISH AND SHELLFISH

26140. Frozen pollock fillets. (F.D.C. No. 43624. S. No. 62-874 P.)

QUANTITY: 108 cases, 5 10-lb. ctns. of 1-lb. cello-wrapped pkgs. each, at Chicago, Ill.

SHIPPED: 9-25-59, from Gloucester, Mass., by J & D Fish Co.

LABEL IN PART: (Case) "J&D Fish Co CW Ski Pollock 8378."

LIBELED: 10-27-59, N. Dist. Ill.

CHARGE: 403(e) (1)—when shipped, the article failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor; and 403(i) (1)—the label failed to bear the common or usual name of the food.

DISPOSITION: 11-27-59. Consent—claimed by Frosted Food Sales Co., Chicago, Ill., and relabeled.

26141. Frozen pollock fillets. (F.D.C. No. 43570. S. No. 63-944 P.)

QUANTITY: 83 ctns., each containing 5 10-lb. boxes containing a number of clear unlabeled cellophane packages of several skinless pollock fillets each, at Boston, Mass.

SHIPPED: These fillets were from fish caught in the waters of the Atlantic Ocean outside the limits of Massachusetts and unloaded on or about 8-27-59 at Boston, Mass., where they were prepared and packed by Deep Sea Fisheries, Inc.

LABEL IN PART: (Ctn.) "Shamrock Fish * * * Poll Fl 33426 8-24-59."

LIBELED: 9-30-59, Dist. Mass.

CHARGE: 403(e)—the article failed to bear a label containing (1) (10-lb. box and cello-wrapped package) the name and address of the manufacturer, packer, or distributor, and (2) (10-lb. box) an accurate statement of the quantity of the contents; and 403(i) (1)—(10-lb. box and cello-wrapped package) its label failed to bear the common or usual name of the food.

DISPOSITION: 10-15-59. Consent—claimed by Shamrock Fisheries, Inc., Boston, Mass., and relabeled.

26142. Fresh dressed whitefish. (F.D.C. No. 43200. S. Nos. 79-996/7 P.)

QUANTITY: 18 60-lb. boxes at Detroit, Mich.

SHIPPED: 6-16-59, from Winnipeg, Canada, by Canadian Fish Producers, Ltd.

LIBELED: On or about 7-7-59, E. Dist. Mich.

CHARGE: 402(a) (3)—contained parasitic cysts when shipped.

DISPOSITION: 8-5-59. Consent—claimed by Max Davis, t/a United Fish Distributors, Detroit, Mich., and exported to original supplier in Canada.

26143. Fresh dressed whitefish. (F.D.C. No. 43525. S. No. 73-377 P.)

QUANTITY: 53 60-lb. boxes at Jersey City, N.J.

SHIPPED: 8-24-59, from New York, N.Y., from premises of various dealers, on the order of J. Kosloff & Co., Detroit, Mich.

LABEL IN PART: "W. R. Menzies Edmonton, Alberta Dressed Whitefish * * * Product of Canada Lesser Slave Lake, Alberta."

LIBELED: 9-10-59, Dist. N.J.

CHARGE: 402(a) (3)—contained parasitic cysts when shipped.

DISPOSITION: 10-26-59. Default—destruction.

26144. Fresh dressed whiting. (F.D.C. No. 43556. S. No. 64-011 P.)

QUANTITY: 695 cases, 12 1½-lb. ctns. each, at Gloucester, Mass.

SHIPPED: The fish consisted of a commingled lot which had been caught in the waters of the Atlantic Ocean by the fishing vessel "Little Flower" outside the territorial limits of Massachusetts, and by the fishing vessel "Serafina II" within 4 or 5 miles of the Massachusetts coastline, and unloaded at Gloucester, Mass., on 8-17-59.

LIBELED: 9-24-59, Dist. Mass.

CHARGE: 402(a)(3)—contained decomposed fish when shipped.

DISPOSITION: 10-26-59. Default—destruction.

26145. Frozen whiting fillets. (F.D.C. No. 43555. S. No. 64-056 P.)

QUANTITY: 117 cases, 10 5-lb. ctns. each, at Boston, Mass.

SHIPPED: These fillets were from fish caught in the waters of the Atlantic Ocean outside the limits of the State of Massachusetts by the fishing vessel "Little Flower," and within 4 or 5 miles of the Massachusetts coastline by the fishing vessel "Serafina II," on August 17, 1959.

LIBELED: 9-24-59, Dist. Mass.

CHARGE: 402(a)(3)—contained decomposed fish when shipped.

DISPOSITION: 11-9-59. Default—delivered to a public institution for use as animal feed.

26146. Frozen whiting. (F.D.C. No. 43455. S. Nos. 73-855 P, 73-862 P.)

QUANTITY: 95 cases, 20 3-lb. pkgs. each, at Hattiesburg, Miss.

SHIPPED: 8-18-59, from Gloucester, Mass., by Progressive Fish Wharf, Inc.

LABEL IN PART: (Pkg.) "Seven Seas Fresh Frozen Dressed Whiting
* * * Packed by Progressive Fish Wharf, Inc., Gloucester, Mass."

LIBELED: 10-7-59, S. Dist. Miss.

CHARGE: 402(b)(2)—when shipped, partly eviscerated whiting had been substituted for dressed whiting which the article was represented to be; 402(b)(4)—partially eviscerated whiting had been packed with the article so as to make it appear to be dressed whiting which is better and of greater quality than the article; and 403(a)—the label statement "Dressed Whiting" was false and misleading as applied to fish which was only partly eviscerated.

DISPOSITION: 11-12-59. Default—destruction.

26147. Frozen carp. (F.D.C. No. 43614. S. No. 85-226 P.)

QUANTITY: 2,764 lbs. at New York, N.Y.

SHIPPED: 7-15-59, from Iowa, Michigan, and Wisconsin.

LIBELED: 10-30-59, S. Dist. N.Y.

CHARGE: 402(a)(3)—contained decomposed carp while held for sale.

DISPOSITION: 11-20-59. Default—destruction.

26148. Frozen halibut. (F.D.C. No. 43643. S. No. 85-229 P.)

QUANTITY: 24 fish, 525 lbs. total, at New York, N.Y.

SHIPPED: 9-11-59, from Nova Scotia, Canada.

RESULTS OF INVESTIGATION: The article was shipped unfrozen, and after arrival at New York, N.Y., was frozen and stored in bulk bins.

LIBELED: 11-9-59, S. Dist. N.Y.

CHARGE: 402(a)(3)—contained decomposed fish while held for sale.

DISPOSITION: 12-4-59. Default—destruction.

26149. Frozen red snappers. (F.D.C. No. 43288. S. No. 33-540 P.)

QUANTITY: 757 lbs. at New York, N.Y.

SHIPPED: 7-5-58, from Tampa, Fla.

RESULTS OF INVESTIGATION: Examination showed the presence of decomposed fish.

LIBELED: 10-9-59, S. Dist. N.Y.

CHARGE: 402(a)(3)—contained a decomposed substance while held for sale.

DISPOSITION: 11-20-59. Default—destruction.

26150. Frozen fish fillets. (F.D.C. No. 43628. S. No. 85-227 P.)

QUANTITY: 9 60-lb. ctns. at New York, N.Y.

SHIPPED: 9-22-58, from Vineland, N.J.

LIBELED: 11-9-59, S. Dist. N.Y.

CHARGE: 402(a)(3)—contained parasitic cysts and decomposed fish fillets while held for sale.

DISPOSITION: 12-4-59. Default—destruction.

26151. Smoked salmon. (F.D.C. No. 43126. S. Nos. 52-834/5 P.)

QUANTITY: 12 ctns., 12 3-oz. pkgs. each, and 17 ctns., 3 3-lb. cans each, at Seattle, Wash.

SHIPPED: 4-10-59, from Los Angeles, Calif., by Los Angeles Smoking & Curing Co.

LABEL IN PART: (Pkg. and can) "Lascco Brand * * * Sliced Smoked Salmon."

LIBELED: 4-27-59, W. Dist. Wash.

CHARGE: 402(a)(2)—when shipped, the article contained sodium nitrite, an added poisonous and deleterious substance which is unsafe within the meaning of 406 since it is a substance not required in the production of this food and can be avoided by good manufacturing practice.

DISPOSITION: 9-14-59. Default—destruction.

26152. Smoked salmon. (F.D.C. No. 43148. S. Nos. 28-218/9 P.)

QUANTITY: 8 300-lb. casks, at Brooklyn, N.Y., in possession of Horowitz Bros. Smoked Fish Products, Inc.

SHIPPED: 8-20-58 and 10-15-58, from Canada and Seattle, Wash.

RESULTS OF INVESTIGATION: The article contained sodium nitrite which had been added by the dealer in curing the article.

LIBELED: 5-20-59, E. Dist. N.Y.

CHARGE: 402(a)(2)—while held for sale, the article contained an added poisonous and deleterious substance, sodium nitrite, which is unsafe within the meaning of 406, since it is a substance not required in the production of this food and can be avoided by good manufacturing practice.

DISPOSITION: 6-18-59. Consent—destruction.

26153. Fresh oysters. (F.D.C. No. 43086. S. No. 14-446 P.)

INFORMATION FILED: 5-28-59, Dist. Md., against J. Harold Thomas, plant manager for W. A. Thomas & Son, Grasonville, Md.

SHIPPED: 12-17-58, from Maryland to Illinois.

LABEL IN PART: (Can) "CAP'N JOHN'S OYSTERS Contents: (12 FL. OZS.) THE GREAT ATLANTIC AND PACIFIC TEA COMPANY NEW YORK, N.Y. DISTRIBUTOR 12129 MD 159."

CHARGE: 403(g)(1)—the article failed to conform to the definition and standard of identity for oysters, since the article was not thoroughly drained, as evidenced by the presence of more than 5 percent of liquid when tested in accordance with the regulations.

PLEA: Nolo contendere.

DISPOSITION: 9-25-59. Fine of \$250, plus costs.

26154. Fresh oysters. (F.D.C. No. 43098. S. No. 33-122 P.)

INFORMATION FILED: 10-14-59, E. Dist. Va., against H. Vernon Drewer, t/a H. Vernon Drewer & Son, Saxis, Va., and H. Vernon Drewer, Jr., an employee.

ALLEGED VIOLATION: On 11-28-52, the defendants caused to be given to a Maryland firm engaged in the oyster business, a guaranty to the effect that each shipment or delivery of oysters by the defendants to the holder of the guaranty would be neither adulterated nor misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act.

On 12-12-58, the defendants caused a number of cans of misbranded oysters to be delivered into the possession of the holder of the guaranty.

The information alleged also that the defendants on 12-12-58, caused the above-mentioned misbranded oysters to be delivered for introduction into interstate commerce at Saxis, Va., for delivery by the purchasers to Daytona Beach, Fla.

CHARGE: 403(g)(1)—the article failed to conform to the definition and standard of identity for oysters, since in the preparation of the article, the containers for the oysters upon being shucked were being filled with water, or salt water, in excess of one-fourth of the volume of oysters and liquid when emptied, and the total time (computed as directed) that such oysters were in contact with water, or salt water containing less than 0.75 percent salt, after leaving the shucker, was more than 30 minutes, which was the maximum amount of water permitted in the containers and the maximum time permitted by the definition and standard.

PLEA: Guilty.

DISPOSITION: 11-2-59. \$250 fine against the defendants jointly.

26155. Frozen rock lobster tails. (F.D.C. No. 43604. S. No. 85-223 P.)

QUANTITY: 8 ctns., 4 10-lb. pkgs. each, at New York, N.Y.

SHIPPED: 8-26-59, from Brazil, by Atalanta Trading Corp.

LABEL IN PART: (Ctn. & pkg.) "Product of Brazil * * * Rock Lobster Tails Fresh Frozen."

LIBELED: 10-23-59, S. Dist. N.Y.

CHARGE: 402(a)(3)—contained decomposed rock lobster tails when shipped.

DISPOSITION: 11-20-59. Default—destruction.

26156. Frozen rock lobster tails. (F.D.C. No. 43538. S. No. 57-072 P.)

QUANTITY: 100 ctns., 4 10-lb. boxes each, and 779 15-lb. ctns., at Jacksonville, Fla.

SHIPPED: 8-21-59, from New York, N.Y., by International Fisheries Corp.

LABEL IN PART: (Ctn. & box) "Product of Brazil Brazil Inspeccionado 157 S.I.F. * * * Rock Lobster Tails * * * Packed by Pan American I.A. Ltd. Rio de Janeiro."

LIBELED: On or about 9-16-59, S. Dist. Fla.

CHARGE: 402(a)(3)—contained decomposed lobster tails when shipped.

DISPOSITION: 12-16-59. Default—destruction.

FRUITS AND VEGETABLES

FRESH FRUIT*

26157. Fresh blueberries. (F.D.C. No. 43500. S. No. 64-171 P.)

QUANTITY: 14 crates, 24 1-qt. boxes each, and 1 crate containing 11 1-qt. boxes, at Boston, Mass.

SHIPPED: 8-27-59, from Alton, N.H., by Nancy Rines.

RESULTS OF INVESTIGATION: Examination showed that the article contained maggots.

LIBELED: 8-28-59, Dist. Mass.

CHARGE: 402(a)(3)—contained a filthy substance when shipped.

DISPOSITION: 10-19-59. Default—destruction.

26158. Fresh cranberries. (F.D.C. No. 43802. S. No. 49-126 P.)

QUANTITY: 639 44-lb. bags at Modesto, Calif.

SHIPPED: 10-9-59, from Coos Bay, Oreg., by Dr. R. M. Falk.

LIBELED: 11-10-59, N. Dist. Calif.

CHARGE: 402(a)(2)—the article was a raw agricultural commodity and, when shipped, it contained a pesticide chemical, namely, aminotriazole, which is unsafe within the meaning of 408 since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on cranberries has been prescribed by regulations.

DISPOSITION: 12-18-59. Default—destruction.

26159. Fresh cranberries. (F.D.C. No. 43811. S. No. 52-553 P.)

QUANTITY: 87 cases, 24 1-lb. bags each, at Waterloo, Iowa.

SHIPPED: 11-5-59, from Wisconsin Rapids, Wis., by Mengel Cranberry Co.

LABEL IN PART: (Bag) "Vine Brand Fresh Cranberries * * * Packed for Indian Trail, Inc., Wisconsin Rapids, Wisconsin."

LIBELED: 11-19-59, N. Dist. Iowa.

CHARGE: 402(a)(2)—the article was a raw agricultural commodity and, when shipped, it contained a pesticide chemical, namely, aminotriazole, which is unsafe within the meaning of 408 since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on cranberries has been prescribed by regulation.

DISPOSITION: 12-19-59. Default—destruction.

*See also No. 26187.

26160. Fresh cranberries. (F.D.C. No. 43814. S. No. 87-701 P.)

QUANTITY: 9 cases, 24 1-lb. bags each, at Atlanta, Ga.

SHIPPED: 11-2-59, from Chicago, Ill., by General Supply Co.

LABEL IN PART: (Bag) "Eagle River Brand * * * Cranberries Packed For Cranberry Products, Inc., Eagle River, Wisconsin."

LIBELED: 11-20-59, N. Dist. Ga.

CHARGE: 402(a) (2)—the article was a raw agricultural commodity and, when shipped, it contained a pesticide chemical, namely, aminotriazole, which is unsafe within the meaning of 408 since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on cranberries has been prescribed by regulations.

DISPOSITION: 1-6-60. Default—destruction.

26161. Fresh cranberries. (F.D.C. No. 43822. S. No. 74-246 P.)

QUANTITY: 20 cases, 24 1-lb. bags each, at Birmingham, Ala.

SHIPPED: 11-2-59 and 11-9-59, from South Chicago, Ill., by General Supply Co.

LABEL IN PART: (Bag) "Eagle River Brand Cranberries * * * Packed for Cranberry Products, Inc., Eagle River, Wisconsin."

LIBELED: 11-24-59, N. Dist. Ala.

CHARGE: 402(a) (2)—the article was a raw agricultural commodity and, when shipped, it contained a pesticide chemical, namely, aminotriazole, which is unsafe within the meaning of 408 since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on cranberries has been prescribed by regulations.

DISPOSITION: 12-28-59. Default—destruction.

26162. Fresh cranberries. (F.D.C. No. 43807. S. No. 71-092 P.)

QUANTITY: 25 cases, 24 1-lb. pkgs. each, at Nashville, Tenn.

SHIPPED: 11-2-59, from Chicago, Ill., by General Supply Co.

LABEL IN PART: (Case) "Eagle River Brand Fresh Cranberries From Wisconsin * * * Packed for Cranberry Products, Inc., Eagle River, Wis."

LIBELED: 11-17-59, M. Dist. Tenn.

CHARGE: 402(a) (2)—the article was a raw agricultural commodity and, when shipped, it contained a pesticide chemical, namely, aminotriazole, which is unsafe within the meaning of 408 since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on cranberries has been prescribed by regulations.

DISPOSITION: 1-15-60. Default—destruction.

MISCELLANEOUS FRUIT PRODUCT**26163. Black raspberry puree.** (F.D.C. No. 41377. S. Nos. 84-959 M, 85-221 M.)

QUANTITY: 46 50-lb. cans at Chicago, Ill.

SHIPPED: 11-23-57, from North East, Pa., by Sunshine Packing Corp.

LIBELED: 1-23-58, N. Dist. Ill.

CHARGE: 402(a) (3)—contained rodent hairs and insect fragments when shipped.

DISPOSITION: 5-22-58. Consent—claimed by Sunshine Packing Corp. The article was subsequently destroyed by the claimant.

VEGETABLES AND VEGETABLE PRODUCTS*

26164. Fresh spinach. (F.D.C. No. 41306. S. No. 79-107 M.)

QUANTITY: 182 1-bushel baskets at New York, N.Y.

SHIPPED: 12-13-57, from Crystal City, Tex., by Warren Wagner Shed.

LIBELED: 12-30-57, S. Dist. N.Y.

CHARGE: 402(a)(2)—when shipped, the article was a raw agricultural commodity and contained a pesticide chemical, namely, DDT, which is unsafe within the meaning of 408 since the quantity of such pesticide chemical on the article was not within the limits of the tolerance prescribed by regulations.

DISPOSITION: 1-14-58. Default—destruction.

26165. Frozen peas. (F.D.C. No. 43182. S. No. 21-640 P.)

QUANTITY: 3,157 cases, 24 10-oz. pkgs. each, at Omaha, Nebr.

SHIPPED: Between 7-19-56 and 7-30-56, from Lewiston, Idaho.

RESULTS OF INVESTIGATION: Examination showed that the article failed to meet U.S.D.A. requirements for U.S. Grade A (U.S. Fancy) peas due to deterioration in color, tenderness, flavor, and odor.

LIBELED: 6-5-59, Dist. Nebr.

CHARGE: 403(a)—while held for sale, the label statement "Extra Fancy" was false and misleading as applied to this article which failed to meet U.S.D.A. requirements for U.S. Grade A (U.S. Fancy) peas.

DISPOSITION: 7-13-59. Consent—claimed by Ocoma Foods, Inc., Omaha, Nebr Segregated; 72 cases destroyed.

26166. Dried lima beans, dried black-eyed peas, dried white beans, and dried Great Northern beans. (F.D.C. No. 41279. S. Nos. 82-201/5 M.)

QUANTITY: 7 100-lb. bags of dried baby lima beans, 5 100-lb. bags of dried black-eyed peas, 5 100-lb. bags of small white beans, 3 100-lb. bags of Great Northern beans, and 3 100-lb. bags of dried large lima beans, at Sherman, Tex.

SHIPPED: Between January 1957 and October 1957, from various places outside the State of Texas.

LIBELED: 1-9-58, E. Dist. Tex.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 4-15-58. Default—destruction.

26167. Canned mushrooms. (F.D.C. No. 42698. S. Nos. 39-258 P, 39-260 P, 48-502 P.)

QUANTITY: 301 cases, 24 16 oz. cans each, and 123 cases, 6 4-lb. 4-oz. cans each, at San Francisco, Calif.

SHIPPED: Between 8-21-58 and 12-18-58, from Wilmington, Del., by Delaware Mushroom Cooperative Association.

LABEL IN PART: (Can) "First State Stems and Pieces Mushrooms [or "First State Buttons Mushrooms"] * * * Grown and Packed by Delaware Mushroom Cooperative Association Wilmington, Delaware."

*See also No. 26135.

LIBELED: 2-20-59, N. Dist. Calif.

CHARGE: 402(a)(3)—contained a decomposed substance when shipped.

DISPOSITION: 9-28-59. Consent—claimed by Delaware Mushroom Cooperative Association. Segregated; 150 cases, 24 16-oz. cans each, and 71 cases, 6 4-lb. 4-oz. cans each, destroyed.

26168. Canned Jalapeno peppers. (F.D.C. No. 43798. S. No. 53-460 P.)

QUANTITY: 204 cases, 24 cans each, and 194 cases, 48 cans each, at Los Angeles, Calif.

SHIPPED: 7-31-59, from Laredo, Tex., by La Fortaleza, S. A. Salamanca, Gto., Mexico.

LABEL IN PART: (Can) "Fortaleza Jalapeno Peppers * * * Product Of Mexico * * * La Fortaleza S. A., Salamanca, Gto."

RESULTS OF INVESTIGATION: Examination showed that the article was short weight.

LIBELED: 11-9-59, S. Dist. Calif.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents since the label statements "15 ounces" or "7½ ounces" were inaccurate.

DISPOSITION: 11-24-59. Consent—claimed by La Fortaleza, S. A., Company of Salamanca, Gto., Mexico, and relabeled.

26169. Canned sweet red peppers. (F.D.C. No. 43923. S. No. 60-194 P.)

QUANTITY: 136 cases, 6 6-lb. 6-oz. cans each, at Baltimore, Md.

SHIPPED: Between 9-10-59 and 9-22-59, from Bridgeville, Del., by H. P. Cannon & Son, Inc.

LABEL IN PART: (Can) "Cannon Diced Red Sweet Peppers * * * H. P. Cannon & Son, Inc., Bridgeville, Del. Dunn, N.C."

LIBELED: 11-23-59, Dist. Md.

CHARGE: 402(a)(3)—contained flies, fly eggs, maggots, and insect fragments when shipped.

DISPOSITION: 12-28-59. Default—destruction.

26170. Celery. (F.D.C. No. 44137. S. Nos. 87-508/9 P, 87-812/13 P.)

QUANTITY: 218 cases, 4 doz. stalks each, and 82 cases, 3 doz. stalks each, at Forest Park, Ga.

SHIPPED: 12-11-59, from Sanford, Fla., by Chase & Co.

LABEL IN PART: (Case) "Heart Fresh Celery Chase & Co., Sanford, Florida Produce of USA."

LIBELED: 12-21-59, N. Dist. Ga.

CHARGE: 402(a)(2)—when shipped, the article was a raw agricultural commodity and contained a pesticide chemical, namely, parathion, which was unsafe within the meaning of 408 since the quantity of such pesticide chemical on the article was not within the limits of the tolerance prescribed by regulations.

DISPOSITION: 1-25-60. Default—destruction.

26171. Mixed pickles. (F.D.C. No. 44160. S. No. 84-668 P.)

QUANTITY: 11 cases, 6 58-oz. jars each, at Arlington, Va.

SHIPPED: 11-19-59, from Old Saybrook, Conn., by Goodman Bros., Inc.

LABEL IN PART: (Jar) "Goodman's Relish Tray Pickle Assortment * * * 'Old Mill' Quality Foods Packed by Goodman Bros. Inc., Meriden, Conn."

LIBELED: 1-5-60, E. Dist. Va.

CHARGE: 402(a)(3)—contained drosophila flies, fly parts, fly eggs, and maggots when shipped.

DISPOSITION: 2-1-60. Default—destruction.

TOMATOES AND TOMATO PRODUCTS

26172. Canned tomatoes (2 seizure actions). (F.D.C. Nos. 43593, 43594. S. Nos. 85-162/3 P.)

QUANTITY: 896 cases, 24 1-lb. cans each, at the Bronx, N.Y., and 289 cases, 24 1-lb. cans each, at Elmsford, N.Y.

SHIPPED: 8-19-59, from Princess Anne, Md., by King's Creek Canning Co.

LABEL IN PART: (Can) "Iona Tomatoes * * * The Great Atlantic & Pacific Tea Co., New York, N.Y., Distributors."

LIBELED: 10-21-59, S. Dist. N.Y.

CHARGE: 402(a)(3)—contained fly eggs and maggots; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 12-30-59. Consent—destruction.

26173. Canned tomatoes. (F.D.C. No. 43804. S. No. 66-315 P.)

QUANTITY: 214 cases, 24 1-lb. cans each, at Oneonta, N.Y.

SHIPPED: 9-1-59, from Ellwood, Md., by Albert W. Sisk & Son.

LABEL IN PART: (Can) "Kent Farm Tomatoes * * * Albert W. Sisk and Son Distributors."

LIBELED: 11-17-59, N. Dist. N.Y.

CHARGE: 402(a)(3)—contained house flies, fly eggs, and maggots; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 12-31-59. Default—destruction.

26174. Canned tomatoes. (F.D.C. No. 43623. S. No. 75-572 P.)

QUANTITY: 276 cases at Chicago, Ill.

SHIPPED: 8-28-59, from Blissfield, Mich., by Blissfield Canning Co.

LABEL IN PART: (Case) "La Salle Tomatoes. 6 No. 10 Cans."

LIBELED: 10-28-59, N. Dist. Ill.

CHARGE: 402(a)(3)—contained decomposed tomato material when shipped.

DISPOSITION: 11-25-59. Default—destruction.

26175. Canned tomatoes. (F.D.C. No. 43640. S. No. 73-501 P.)

QUANTITY: 147 cases, 24 1-lb. 12-oz. cans each, at Jersey City, N.J.

SHIPPED: 9-2-59, from Preston, Md., by Albert W. Sisk & Son.

LABEL IN PART: (Can) "Pride of the Farm Brand Peeled Tomatoes * * * Albert W Sisk and Son * * * Preston, Md. and Aberdeen, Md."

LIBELED: 11-4-59, Dist. N.J.

CHARGE: 402(a)(3)—contained fly eggs and maggots; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 12-14-59. Default—destruction.

26176. Tomato catsup. (F.D.C. No. 43820. S. No. 22-518 P.)

QUANTITY: 139 cases, 6 7-lb. 3-oz. cans each, at Lincoln, Nebr.

SHIPPED: 9-9-59, from Ogden, Utah, by Stevens Canning Co.

LABEL IN PART: (Can) "Peg Brand Tomato Catsup * * * Distributed by Pegler & Co. Lincoln, Nebraska."

LIBELED: 11-25-59, Dist. Nebr.

CHARGE: 402(a)(3)—contained decomposed tomato material when shipped.

DISPOSITION: 12-21-59. Consent—destruction.

26177. Tomato puree. (F.D.C. No. 44170. S. Nos. 84-522/3 P.)

QUANTITY: 136 cases, 24 1-lb. 13-oz. cans each, at Baltimore, Md.

SHIPPED: Between 11-17-59 and 12-1-59, from Hanover, Pa., by Hanover Canning Co.

LABEL IN PART: (Can) "Hanover * * * Tomato Puree * * * Distributed by Hanover Canning Co., Hanover, Pa."

LIBELED: On or about 1-11-60, Dist. Md.

CHARGE: 402(a)(3)—contained fly eggs and maggots when shipped.

DISPOSITION: 2-3-60. Default—destruction.

NUTS AND NUT PRODUCTS

26178. Cashew kernels. (F.D.C. No. 43842. S. No. 66-177 P.)

QUANTITY: 36 cases, 2 25-lb. cans each, at Pittsburgh, Pa.

SHIPPED: 10-2-59, from New York, N.Y.

LIBELED: 11-27-59, W. Dist. Pa.

CHARGE: 402(a)(3)—contained insects, insect fragments, and rodent hair while held for sale.

DISPOSITION: 1-18-60. Default—destruction.

26179. Shelled black walnuts. (F.D.C. No. 42845. S. Nos. 46-957 P, 46-959 P.)

QUANTITY: 99 32-lb. cases at Chicago, Ill.

SHIPPED: 12-19-58, from San Jose, Calif., by Santa Clara Nut Co.

LABEL IN PART: "Extra Large [or "Small"] California Black Walnut Kernels * * * Santa Clara Nut Company, San Jose, California."

RESULTS OF INVESTIGATIONS: Inspection showed that insanitary conditions existed in the plant of the Woodland Nut Co., Woodland, Calif., the packer of the nuts.

LIBELED: 2-16-59, N. Dist. Ill.

CHARGE: 402(a)(3)—contained *E. coli*; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 3-9-59. Consent—claimed by Santa Clara Nut Co. Segregated; 22 30-lb. cases of the small black walnut kernels were destroyed.

26180. Salted peanuts. (F.D.C. No. 43618. S. No. 45-180 P.)

QUANTITY: 104 cases, 12 14-oz. cans each, at Denver, Colo.

SHIPPED: 4-15-59, from Chicago, Ill., by Wolch Nut Co.

LABEL IN PART: (Can) "Vacuum Packed Wolch's Fresh Pack Salted Blanched Virginia Peanuts Wolch Nut Co., Chicago, Ill."

LIBELED: 10-26-59, Dist. Colo.

CHARGES 403(d)—when shipped, the container of the article was so filled as to be misleading, since the peanuts occupied less than two-thirds of the can and additional peanuts could be packed in the can with no physical packaging difficulty; 403(e) (2)—the article failed to bear a label containing an accurate statement of the quantity of contents (the article was short weight); and 403(f)—the information required by 403(e) (2) to appear on the label, namely, the quantity of contents statement, was not prominently placed on the label with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

DISPOSITION: 12-16-59. Default—delivered to a public institution for human consumption.

26181. Shelled peanuts. (F.D.C. No. 43223. S. Nos. 26-493 P, 26-500 P.)

INDICTMENT RETURNED: 9-14-59, S. Dist. Iowa, against Peanut Corp. of America, t/a Peanut Products Co., Des Moines, Iowa, and Harry Miller, secretary-treasurer and plant manager of the corporation.

ALLEGED VIOLATION: Between 9-19-58 and 11-28-58, the defendants caused quantities of shelled peanuts, while held for sale after shipment in interstate commerce, to be held in a building that was accessible to rodents and to be exposed to contamination by rodents which act resulted in the article being adulterated.

CHARGE: 402(a) (3)—contained rodent urine, rodent excreta, and rodent-gnawed peanuts; and 402(a) (4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 12-11-59. Corporation fined \$3,500, individual fined \$1,000, together with costs.

26182. Shelled peanuts. (F.D.C. No. 43229. S. Nos. 15-922 P, 16-286/7 P, 16-290 P, 16-540 P.)

INFORMATION FILED: 9-3-59, S. Dist. Ind., against Clark Francis, t/a Peak Nut Co., Indianapolis, Ind.

ALLEGED VIOLATION: Between 3-20-58 and 5-7-59, the defendant caused quantities of peanuts, while held for sale after shipment in interstate commerce, to be held in a building that was accessible to rodents and insects and to be exposed to contamination by rodents and insects which act resulted in the article being adulterated.

CHARGE: 402(a) (3)—contained insects, mouse excreta pellets, rodent hairs, and rodent urine; and 402(a) (4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 12-3-59. \$300 fine, plus costs.

26183. Shelled peanuts. (F.D.C. No. 44159. S. No. 67-955 P.)

QUANTITY: 32 120-lb. bags at Bethlehem, Pa.

SHIPPED: 2-1-57, from Suffolk, Va.

LIBELED: 1-7-60, E. Dist. Pa.

CHARGE: 402(a)(3)—contained moldy peanuts while held for sale.

DISPOSITION: 2-4-60. Default—destruction.

26184. Shelled Spanish peanuts. (F.D.C. No. 43008. S. No. 48-705 P.)

QUANTITY: 332 120-lb. bags at Oakland, Calif.

SHIPPED: 4-10-59, from Fredericksburg, Tex., by Quality Peanut Co.

LABEL IN PART: "No. 1 Hand Picked Shelled Spanish Peanuts."

LIBELED: 5-13-59, N. Dist. Calif.

CHARGE: 402(a)(3)—contained insects and animal manure when shipped.

DISPOSITION: 6-4-59. Consent—claimed by Quality Peanut Co. Segregated; 618 lbs. denatured for use as animal feed.

26185. Shelled peanuts and unshelled peanuts. (F.D.C. No. 42753. S. Nos. 24-350 P, 24-352 P, 24-678 P.)

QUANTITY: 27 120-lb. bags of shelled peanuts, and 77 100-lb. bags of unshelled peanuts, at Los Angeles, Calif., in possession of Los Angeles Nut House.

SHIPPED: Between 11-6-57 and 10-23-58, from Portland, Oreg., Fredericksburg, Tex., and Suffolk, Va.

LIBELED: 1-6-59, S. Dist. Calif.

CHARGE: 402(a)(3)—both articles contained insects and the unshelled peanuts contained moldy nuts and empty shells; and 402(a)(4)—shelled peanuts were held under insanitary conditions.

DISPOSITION: 2-12-59. Consent—claimed by Los Angeles Nut House. Segregated; the shelled peanuts and 2,640 lbs. of unshelled peanuts were destroyed.

26186. Salted peanuts, chocolate-covered peanuts, and peanut butter. (F.D.C. No. 43059. S. Nos. 24-144 P, 39-836/8 P, 39-841 P, 40-447 P.)

INFORMATION FILED: 9-9-59, N. Dist. Calif., against Planters Nut & Chocolate Co., a corporation, San Francisco, Calif., and Harry W. Guppy, Western Division General Manager of the corporation.

ALLEGED VIOLATION: On 4-25-58, the defendants caused a quantity of peanuts, while held for sale after shipment in interstate commerce, to be held in a building accessible to insects and rodents and to be exposed to contamination by insects and rodents, namely, by placing the article in rodent- and insect-contaminated equipment in such building, which act resulted in the article being adulterated.

In addition, on 5-27-58 and 10-6/7-58, the defendants caused quantities of peanuts and peanut butter which were adulterated to be shipped from California to Alaska, Arizona, and Hawaii.

LABEL IN PART: (Bag) "Planters Chocolate Peanuts Net Wt. 1 $\frac{3}{8}$ Oz. Manufactured by Planters Nut & Chocolate Co. San Francisco, Cal."; and "Planters Salted Peanuts Roasted in Vegetable Oil Net Wt. $\frac{3}{4}$ Oz. or 21.26 Grams." (Jar) "Planters Peanut Butter Net Wt. 1 Lb. 2 Ozs. (150 Grams)."

CHARGE: 402(a)(3)—a portion of the peanuts contained insects, insect fragments, and rodent hairs; and 402(a)(4)—all of the articles were held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 11-17-59. Corporation fined \$1,000; individual fined \$200.

26187. Unshelled walnuts, dried prunes, piecrust mix, biscuit mix, pancake mix, and waffle mix. (F.D.C. No. 43352. S. Nos. 63-694/7 P, 63-699 P.)

QUANTITY: 39½ ctns., 48 1-lb. pkgs. each, of walnuts; 30 ctns., 24 1-lb. pkgs. each of prunes; 7 cases, 24 9-oz. pkgs. each, of piecrust mix; 30 cases, 8½-oz. pkgs. each, of biscuit mix; and 18 cases, 24 9-oz. pkgs. each, of pancake and waffle mix; at Bridgeport, Conn., in possession of National Food Brands, Inc.

SHIPPED: Between 10-1-58 and 12-5-58, from California and Michigan.

LIBELED: 8-27-59, Dist. Conn.

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 9-23-59. Default—delivered to a public institution for use as animal feed.

26188. Unshelled filberts. (F.D.C. No. 43944. S. No. 57-163 P.)

QUANTITY: 50 cases, 24 1-lb. pkgs. each, at East Point, Ga.

SHIPPED: 10-28-59 and 11-5-59, from Boston, Mass.

LIBELED: 12-3-59, N. Dist. Ga.

CHARGE: 402(a)(3)—contained insects, moldy nuts, shriveled nuts, and empty shells while held for sale.

DISPOSITION: 2-8-60. Default—destruction.

26189. Unshelled pecans. (F.D.C. No. 43852. S. No. 64-592 P.)

QUANTITY: 25 cases, 24 1-lb. bags each, at Overland, Mo.

SHIPPED: 11-3-59, from Cairo, Ga.

LIBELED: 12-2-59, E. Dist. Mo.

CHARGE: 402(a)(3)—contained insects, moldy and decomposed nuts, shriveled nuts, and empty shells while held for sale.

DISPOSITION: 1-15-60. Default—destruction.

26190. Unshelled pecans. (F.D.C. No. 43860. S. No. 98-013 P.)

QUANTITY: 9 cases, 24 1-lb. bags each, at Quincy, Ill.

SHIPPED: 11-9-59, from Cairo, Ga.

LIBELED: 12-4-59, S. Dist. Ill.

CHARGE: 402(a)(3)—contained moldy, decomposed, and rancid nuts while held for sale.

DISPOSITION: 12-31-59. Default—destruction.

26191. Unshelled pecans. (F.D.C. No. 43979. S. No. 74-837 P.)

QUANTITY: 28 50-lb. bags at Chicago, Ill.

SHIPPED: 10-20-59, from Cairo, Ga.

LIBELED: 12-21-59, N. Dist. Ill.

CHARGE: 402(a)(3)—contained moldy, rancid, decomposed nuts, shriveled nuts, and empty shells while held for sale.

DISPOSITION: 1-25-60. Default—destruction.

26192. Mixed nuts. (F.D.C. No. 43838. S. No. 49-870 P.)

QUANTITY: 52 cases, 24 1-lb. boxes each, at Cincinnati, Ohio.

SHIPPED: 10-22-59, from New York, N.Y., by William A. Camp Co., Div., Jos. A. Zaloom & Co., Inc.

LABEL IN PART: (Case) "Home Service Trays Universal Brand Mixed Nuts Wm. A. Camp Division Jos. A. Zaloom & Co., Inc., New York, N.Y."

LIBELED: 11-30-59, S. Dist. Ohio.

CHARGE: 402(a)(3)—contained insects, rancid, decomposed nuts, shriveled nuts, and empty shells when shipped.

DISPOSITION: 1-6-60. Default—delivered to a public institution for use as animal feed.

OILS AND FATS

26193. Olive oil. (F.D.C. No. 42897. S. Nos. 33-466/7 P.)

QUANTITY: 31 ctns., 24 4-oz. btls. each, and 39 ctns., 24 8-oz. btls. each, at Linden, N.J.

SHIPPED: Between 1-27-59 and 3-3-59, from Brooklyn, N.Y., by Granadaisa Foods (B. M. Reeves Co., Inc.).

LABEL IN PART: (Btl.) "Linden House * * * Pure Imported Olive Oil * * * Twin County Grocers Inc., Linden, N.J. Distributors."

LIBELED: On or about 3-27-59, Dist. N.J.

CHARGE: 402(b)(2)—when shipped, tea seed oil had been substituted in part for olive oil; and 403(a)—the label statement "Pure Imported Olive Oil" was false and misleading as applied to the article which was a mixture of tea seed oil and olive oil.

DISPOSITION: 11-23-59. Default—destruction.

26194. Olive oil. (F.D.C. No. 42882. S. Nos. 33-463/4 P.)

QUANTITY: 90 ctns., 6 1-gal. cans each, and 96 ctns., 12 ¼-gal. cans each, at Kearny, N.J.

SHIPPED: 2-17-59, from Brooklyn, N.Y., by Uddo & Taormina Co.

LABEL IN PART: (Can) "Progreso Brand 100% Pure Imported Olive Oil Imported and Packed by Uddo & Taormina Co. Brooklyn, N.Y."

RESULTS OF INVESTIGATION: Examination showed the article to be a mixture of tea seed oil and olive oil.

LIBELED: 3-12-59, Dist. N.J.

CHARGE: 402(b)(2)—when shipped, tea seed oil had been substituted in part for olive oil.

DISPOSITION: 12-15-59. Default—destruction.

26195. Olive oil. (F.D.C. No. 42877. S. No. 57-932 P.)

QUANTITY: 94 cases, 12 1-pint cans each, at Linden, N.J.

SHIPPED: On or about 10-22-58, by Raffineria Bruzia, Reggio Calabria, Italy.

LABEL IN PART: (Can) "Pure Olive Oil * * * Progresso Brand * * * 100% Pure Imported and Packed by Uddo & Taormina Co., Brooklyn, N.Y."

RESULTS OF INVESTIGATION: The article was shipped in bulk drums as described above and, after receipt in this country, was repacked into cans.

LIBELED: 3-10-59, Dist. N.J.

CHARGE: 402(b)(2)—tea seed oil had been substituted in whole or in part for olive oil.

DISPOSITION: 12-15-59. Default—destruction.

SPICES, FLAVORS, AND SEASONING MATERIALS*

26196. Mustard seed. (F.D.C. No. 43183. S. No. 65-221 P.)

QUANTITY: 250 100-lb bags at Salt Lake City, Utah, in possession of Utah Pickle Co.

SHIPPED: 6-11-58 and 4-22-59, from Sunburst, Mont.

LIBELED: 6-30-59, Dist. Utah.

CHARGE: 402(a)(3)—contained rodent urine and rodent excreta pellets; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 11-23-59. Consent—claimed by Utah Pickle Co., Salt Lake City, Utah. Segregated; 70 100-lb. bags were denatured and tagged for seed purposes only.

26197. Paprika. (F.D.C. No. 43817. S. No. 49-118 P.)

QUANTITY: 5 100-lb. bags at San Francisco, Calif.

SHIPPED: 5-6-57, from outside the United States.

LIBELED: 11-23-59, N. Dist. Calif.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 12-22-59. Default—destruction.

26198. Paprika and poppyseed. (F.D.C. No. 43816. S. Nos. 49-117 P, 49-119 P.)

QUANTITY: 3 110-lb. bags of paprika and 9 110-lb. bags of poppyseed at San Francisco, Calif.

SHIPPED: 12-13-55 and 3-18-59, from Rotterdam, Holland.

LIBELED: 11-24-59, N. Dist. Calif.

CHARGE: 402(a)(3)—contained insects and (poppyseed) rodent urine while held for sale.

DISPOSITION: 12-22-59. Default—destruction.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE ‡

26199. Vitamin B complex tablets. (F.D.C. No. 43385. S. No. 61-070 P.)

QUANTITY: 1 4,500-tablet drum at Cleveland, Ohio.

SHIPPED: 3-26-59, from Long Island City, N.Y.

RESULTS OF INVESTIGATION: Examination showed that the article contained approximately 76 percent of the declared amount of vitamin C and approximately 80 percent of the declared amount of vitamin B₁₂.

*See also No. 26106.

‡ See also No. 26101.

LIBELED: 7-7-59, N. Dist. Ohio.

CHARGE: 402(b) (1)—while held for sale, the valuable constituents, vitamin C and vitamin B₁₂, had been in part omitted or abstracted from the article; and 403(a)—the label statement “Ascorbic Acid 30 mg. Vitamin B-12 * * * 3 mcgm.” was false and misleading.

DISPOSITION: 8-3-59. Default—destruction.

26200. Naco multivitamin drops. (F.D.C. No. 43996. S. No. 53-468 P.)

QUANTITY: 158 btls. at Los Angeles, Calif.

SHIPPED: Between 9-18-59 and 10-28-59, from St. Louis, Mo.

RESULTS OF INVESTIGATION: Examination showed that the article contained approximately 75 percent of the declared amount of vitamin B₁.

LIBELED: 12-16-59, S. Dist. Calif.

CHARGE: 402(b) (1)—when shipped, the valuable constituent, vitamin B₁, had been in part omitted or abstracted from the article; and 403(a)—the label statement “Each 0.6 cc contains * * * Thiamine Hydrochloride (B-1) 1 Mg.” was false and misleading.

DISPOSITION: 1-14-60. Default—destruction.

INDEX TO NOTICES OF JUDGMENT F.N.J. NOS. 26101-26200

PRODUCTS

	N.J. No.		N.J. No.
Beans, black-eyed. <i>See</i> Peas,		Donut flour_____	26108
black-eyed, dried.		mix _____	26104
Great Northern, dried_____	26166	Eggs, frozen_____	26138, ¹ 26139
lima, dried_____	26166	Emulsifier _____	26104
navy, dried_____	26135	Fats. <i>See</i> Oils and fats.	
white, dried_____	26166	Filberts, unshelled_____	26188
Biscuit mix_____	26187	Fish and shellfish_____	26140-26156
Black-eyed peas, dried_____	26166	Flour_____	26103-26113
Blueberries, fresh_____	26157	Donut _____	26108
Bread _____	26104	Fruits and vegetables____	26157-26177
mix _____	26135	fruit, fresh_____	26157-26162
Butter _____	26136	miscellaneous fruit prod-	
Caraway seed_____	26106	uct _____	26163
Carp, frozen_____	26147	tomatoes and tomato prod-	
Cashew kernels_____	26178	ucts _____	26172-26177
Celery _____	26170	vegetables and vegetable prod-	
Cereals and cereal products___	26101-	ucts _____	26164-26171
	26135	Great Northern beans, dried____	26166
Cookies _____	26123	Grits, corn_____	26133
Cornbread mix_____	26123	Halibut, frozen_____	26148
Cornmeal_____	26101, 26102, 26107	Lima beans, dried_____	26166
Corn grits_____	26133	Lobster tails, frozen_____	26155, 26156
muffin mix_____	26134	Milk, dry, nonfat_____	26137
Cranberries, fresh_____	26158-26162	Miscellaneous cereals and cereal	
Dairy products_____	26136, 26137	products _____	26114-26135

¹ (26139) Prosecution contested. Contains opinion of the court.

	N.J. No.		N.J. No.
Mix, biscuit_____	26187	Pickles, mixed_____	26171
bread _____	26135	Piecrust mix_____	26187
cornbread _____	26123	Pollock fillets, frozen_____	26140, 26141
corn muffin_____	26134	Popcorn, unpopped_	26127-26132, 26135
Donut _____	26104	Poppyseed _____	26106, 26198
pancake _____	26187	Protein flakes (cereal)_____	26134
piecrust _____	26187	Prunes, dried_____	26187
raisin bran muffin_____	26134	Raisin bran muffin mix_____	26134
waffle _____	26187	Raspberry puree, black_____	26163
Muffin mix, raisin bran_____	26134	Rice _____	26114-26123
corn _____	26134	Salmon, smoked_____	26151, 26152
Mushrooms, canned_____	26167	Shellfish. <i>See</i> Fish and shellfish.	
Mustard seed_____	26196	Snappers, red, frozen (fish)_____	26149
Naco multivitamin drops_____	26200	Spices, flavors, and seasoning	
Navy beans, dried_____	26135	materials _____	26196-26198
Nonfat dry milk_____	26137	Spinach, fresh_____	26164
Nuts and nut products___	26178-26192	Tomato(es), canned_____	26172-26175
mixed _____	26192	catsup _____	26176
Oils and fats_____	26193-26195	puree _____	26177
Olive oil_____	26193-26195	Vegetables. <i>See</i> Fruits and vege-	
Oysters, fresh_____	26153, 26154	tables.	
Pancake mix_____	26187	Vitamin, mineral, and other prod-	
Paprika_____	26197, 26198	ucts of special dietary signifi-	
Peanut(s) butter_____	26186	cance _____	26199, 26200
chocolate-covered _____	26186	Waffle mix_____	26187
salted_____	26180, 26186	Walnuts, black, shelled_____	26179
shelled_____	26181-26183, 26185	unshelled _____	26187
Spanish _____	26184	Wheat_____	26124-26126
unshelled _____	26185	Whitefish, dressed, fresh___	26142, 26143
Peas, black-eyed, dried_____	26166	Whiting, frozen_____	26146
frozen _____	26165	fillets, frozen_____	26145
Pecans, unshelled_____	26189-26191	dressed, fresh_____	26144
Peppers, canned, Jalapeno_____	26168	Whole wheat flakes (cereal)_____	26134
red, sweet_____	26169		

SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS

	N.J. No.		N.J. No.
A & P, Great, Tea Co. :		Brickner, S. E., & Son. <i>See</i>	
canned tomatoes_____	26172	Brickner, H. E.	
fresh oysters_____	26153	Bruzia, Raffineria :	
Atalanta Trading Corp. :		olive oil_____	26195
frozen rock lobster tails_____	26155	Campbell Farming Corp. :	
Blissfield Canning Co. :		wheat _____	26124
canned tomatoes_____	26174	Camp, William A., Co., Div. of	
Brickner, H. E. :		Jos. A. Zaloom & Co., Inc. :	
raisin bran muffin mix, protein		mixed nuts_____	26192
flakes (cereal), whole wheat		Canadian Fish Producers, Ltd. :	
flakes (cereal), and corn		fresh dressed whitefish_____	26142
muffin mix_____	26134		

	N.J. No.		N.J. No.
Cannon, H. P., & Son, Inc.:		J & D Fish Co.:	
canned sweet red peppers_____	26169	frozen pollock fillets_____	26140
Central Warehouse Co.:		Joseph's Imported Foods:	
rice _____	26118	rice and flour_____	26122
Chase & Co.:		King's Creek Canning Co.:	
celery _____	26170	canned tomatoes_____	26172
Chester Wholesale Grocery Co.,		Kirk, David, Sons Co.:	
Inc.:		bread mix, unpopped popcorn,	
flour and cornmeal_____	26107	and dried navy beans_____	26135
Cranberry Products, Inc.:		Kirk, R. W.:	
fresh cranberries_____	26160-26162	bread mix, unpopped popcorn,	
Deep Sea Fisheries, Inc.:		and dried navy beans_____	26135
frozen pollock fillets_____	26141	Kosloff, J., & Co.:	
Delaware Mushroom Cooperative		fresh dressed whitefish_____	26143
Association:		Kramer, J. B., Candy Co.:	
canned mushrooms_____	26167	cornmeal and flour_____	26102
Drewer, H. V.:		Kwong Dack Wo Co.:	
fresh oysters_____	26154	rice _____	26117
Drewer, H. V., Jr.:		La Fortaleza, S. A.:	
fresh oysters_____	26154	canned Jalapeno peppers_____	26168
Drewer, H. V., & Son. <i>See</i>		Levin, S. M.:	
Drewer, H. V.		frozen eggs_____ ¹	26139
Equity Cooperative Association:		Little Flower (boat):	
wheat _____	26126	fresh dressed whiting__	26144, 26145
Excel Bonded Warehouse, Inc.:		Los Angeles Nut House:	
rice _____	26115	shelled and unshelled peanuts_	26185
Falk, Dr. R. M.:		Los Angeles Smoking & Curing	
fresh cranberries_____	26158	Co.:	
Francis, Clark:		smoked salmon_____	26151
shelled peanuts_____	26182	Manley, Inc.:	
General Supply Co.:		unpopped popcorn_____	26128
fresh cranberries_____	26160-26162	McCray Wholesale Grocery Co.:	
Goodman Bros., Inc.:		rice, cookies, and cornbread	
mixed pickles_____	26171	mix_____	26123
Granadaisa Foods:		Mengel Cranberry Co.:	
olive oil_____	26193	fresh cranberries_____	26159
Guppy, H. W.:		Menzies, W. R.:	
salted peanuts, chocolate-cov-		fresh dressed whitefish_____	26143
ered peanuts, and peanut		Milillo, F. M.:	
butter _____	26186	flour, Donut mix, bread, and	
Hanover Canning Co.:		emulsifier_____	26104
tomato puree_____	26177	Milillo Baking Co., Inc.:	
Horowitz Bros. Smoked Fish		flour, Donut mix, bread, and	
Products, Inc.:		emulsifier_____	26104
smoked salmon_____	26152	Miller, Harry:	
Indian Trail, Inc.:		shelled peanuts_____	26181
fresh cranberries_____	26159	Morton Bake Shop. <i>See</i> South	
International Fisheries Corp.:		Shore Baking Co., Inc.	
frozen rock lobster tails_____	26156		

¹ (26139) Prosecution contested. Contains opinion of the court.

	N.J. No.		N.J. No.
Murphy, F. X., Jr.:		Roberts Rice Milling Co.:	
cornmeal-----	26101	rice-----	26120
Murphy, J. A.:		Roberts Rice Mills, Inc.:	
cornmeal-----	26101	rice-----	26120
Murphy Grain & Milling Co., Inc.:		St. Louis Rice Co.:	
cornmeal-----	26101	rice-----	26120
National Food Brands, Inc.:		Santa Clara Nut Co.:	
unshelled walnuts, dried		shelled black walnuts-----	26179
prunes, piecrust mix, bis-		Seaboard Allied Milling Corp.:	
cuit mix, pancake mix, and		Donut flour-----	26108
waffle mix-----	26187	Serafina II (boat):	
Oberstein, Julian:		fresh dressed whiting--	26144, 26145
flour-----	26112	Sisk, A. W., & Son:	
Occident Elevator:		canned tomatoes-----	26173, 26175
wheat-----	26125	Southern Bakeries Co.:	
Opp, George:		wheat flour with bran-----	26105
unpopped popcorn-----	26130	South Shore Baking Co., Inc.:	
Pan American I.A., Ltd.:		flour-----	26112
frozen rock lobster tails-----	26156	Stevens Canning Co.:	
Peak Nut Co. <i>See</i> Francis, Clark.		tomato catsup-----	26176
Peanut Corp. of America:		Sunshine Packing Corp.:	
shelled peanuts-----	26181	black raspberry puree-----	26163
Peanut Products Co. <i>See</i> Peanut		Thomas, J. H.:	
Corp. of America.		fresh oysters-----	26153
Pegler & Co.:		Thomas, W. A., & Son:	
tomato catsup-----	26176	fresh oysters-----	26153
Perry, Smith and Hart:		Tillman Produce Co.:	
rice-----	26120	frozen eggs-----	26138
Planters Nut & Chocolate Co.:		Twin County Grocers, Inc.:	
salted peanuts, chocolate-cov-		olive oil-----	26193
ered peanuts, and peanut		Uddo & Taormina Co.:	
butter-----	26186	olive oil-----	26194, 26195
Progressive Fish Wharf, Inc.:		Utah Pickle Co.:	
frozen whiting-----	26146	mustard seed-----	26196
Quality Egg Products, Inc.:		Wagner, Warren, Shed:	
frozen eggs----- ¹	26139	fresh spinach-----	26164
Quality Peanut Co.:		Waples-Platter Co.:	
shelled Spanish peanuts-----	26184	unpopped popcorn-----	26131
Red River Valley Popcorn Co.:		Wolch Nut Co.:	
unpopped popcorn-----	26131	salted peanuts-----	26180
Reeves, B. M., Co. <i>See</i> Grana-		Zaloom, Jos. A., & Co., Inc. <i>See</i>	
daisa Foods.		Camp, William A., Co.	
Rines, Nancy:			
fresh blueberries-----	26157		

¹ (26139) Prosecution contested. Contains opinion of the court.

U.S. Department of Health, Education, and Welfare

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

26201-26300

FOODS

LIBRARY

CURRENT SERIAL RECORD

★ JUL 26 1960

U. S. DEPARTMENT OF AGRICULTURE

The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were adulterated or misbranded within the meaning of the Act when introduced into and while in interstate commerce, or while held for sale after shipment in interstate commerce, and oleomargarine which was sold or offered for sale in violation of the Act. These cases involve (1) seizure proceedings in which decrees of condemnation were entered by default, by consent, or after trial; and (2) criminal proceedings which were terminated upon pleas of guilty or nolo contendere or by judgments of acquittal after trial. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the criminal proceedings are against the *firms* or *individuals* charged to be responsible for violations.

Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D.C., *June 20, 1960.*

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*SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN VIOLATIONS
REPORTED IN F.N.J. NOS. 26201-26300*

Adulteration, Section 402(a) (2), the article, in two cases, contained an added poisonous or deleterious substance which was unsafe within the meaning of Section 406, and, in nine cases, the article was a raw agricultural commodity and contained a pesticide chemical which was unsafe within the meaning of Section 408(a); Section 402(a) (3), the article consisted in part of a filthy or decomposed substance, or it was otherwise unfit for food; Section 402(a) (4), the article had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth; Section 402(b) (1), a valuable constituent had been in whole or in part omitted or abstracted from the article; Section 402(b) (2), a substance had been substituted wholly or in part for the article; Section 402(b) (4), a substance had been added to the article or mixed or packed therewith so as to increase its bulk, or reduce its quality, or make it appear better or of greater value than it was; Section 406(a), a poisonous or deleterious substance was added to food when such substance was not required in the production thereof and could have been avoided by good manufacturing practice; and Section 408(a), a poisonous or deleterious pesticide chemical, or a pesticide chemical which is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety of pesticide chemicals, as safe for use, had been added to a raw agricultural commodity; and no tolerance or exemption from the requirement of a tolerance for such pesticide chemical in or on the raw agricultural commodity had been prescribed by the Secretary of Health, Education, and Welfare; or such tolerance had been prescribed, and the quantity of the pesticide chemical was in excess of the tolerance.

Misbranding, Section 403(a), the labeling of the article was false and misleading; Section 403(e), the article was in package form and it failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor, and (2) an accurate statement of the quantity of contents in terms of weight or measure; Section 403(f), a word, statement, or other information required by the Act to appear on the label of the article was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; Section 403(g) (1), the article purported to be and was represented as a food for which a definition and standard of identity had been prescribed by regulation, and it failed to conform to such definition and standard; Section 403(h) (1), the article purported to be and was represented as a food for which a standard of quality had been prescribed by regulations, and it fell below such standard and its label failed to bear a statement that it fell below such standard; Section 403(i), the article was not subject to the provisions of Section 403(g) and (1), its label failed to bear the common or usual name of the food; and (2), the article was fabricated from two or more ingredients and its label failed to bear the common or usual name of each such ingredient; Section 403(j), the article purported to be and was represented for special dietary uses, and its label failed to bear such information as the Secretary had determined to be, and by regulations prescribed as, necessary in order fully to inform purchasers as to its value for such uses; Section 403(k), the article contained an artificial flavoring or chemical preservative and it failed to bear labeling stating that fact.

BEVERAGES AND BEVERAGE MATERIAL

26201. Coffee. (F.D.C. No. 43112. S. Nos. 4-689 P, 4-960 P.)

INFORMATION FILED: 10-14-59, E. Dist. Va., against Norva Coffee Co., a partnership, Norfolk, Va., and Steve A. Votsis, partner.

ALLEGED VIOLATION: On 3-24-59, while a quantity of green coffee was being held for sale after shipment in interstate commerce, the defendants caused a quantity of the article to be roasted, blended, mixed with chicory, and packed into retail bags labeled in part "Windsor House Coffee," which acts resulted in the article being adulterated and misbranded.

The information alleged also that the defendants on 3-28-59, caused to be shipped from Norfolk, Va., to Elizabeth, N.C. a number of 1-lb. retail bags labeled in part "York Hotel Blend Quality Service Fresh Roasted Coffee Norva Coffee Co. Norfolk, Va." which were adulterated.

CHARGE: 402(b)(1)—(Both lots) a valuable constituent, namely, coffee, had been in part omitted from the article; 402(b)(2)—(both lots) chicory had been substituted in part for coffee; 403(a)—(Windsor House brand) the label statement "Coffee" was false and misleading; and 403(i)(2)—the article was composed of two or more ingredients, namely, coffee and chicory, and its label failed to bear the common or usual name of each such ingredient.

PLEA: Guilty.

DISPOSITION: 11-2-59. \$250 fine against the defendants jointly.

26202. Green coffee beans. (F.D.C. No. 43803. S. No. 74-301 P.)

QUANTITY: 182 126-lb. bags at Lafayette, La.

SHIPPED: 9-9-59, from New Orleans, La.

LIBELED: 11-10-59, W. Dist. La.

CHARGE: 402(a)(3)—contained insect-infested coffee beans while held for sale.

DISPOSITION: 2-4-60. Default—destruction.

26203. Green coffee beans. (F.D.C. No. 44032. S. No. 49-234 P.)

QUANTITY: 28 bags, 2,949 lbs. total, at San Francisco, Calif.

SHIPPED: 12-7-59, from outside the United States.

LIBELED: 1-13-60, N. Dist. Calif.

CHARGE: 402(a)(3)—contained wood splinters, nondescript dirt, and miscellaneous filth while held for sale.

DISPOSITION: 2-12-60. Default—destruction.

26204. "10" Orange Drink. (F.D.C. No. 43949. S. No. 46-714 P.)

QUANTITY: 45 cases, 6½-gal. btls. each, at Dothan, Ala.

SHIPPED: 7-24-59, from Memphis, Tenn., by Burgie Foods Co.

LABEL IN PART: "Serv '10' Non-Carbonated Orange Drink * * * Enriched with Vitamin 'C'."

RESULTS OF INVESTIGATION: Examination showed that the article contained approximately 69 percent of the minimum daily requirement of vitamin C in each pint as declared on its label.

LIBELED: 12-9-59, M. Dist. Ala.

CHARGE: 402(b)(1)—while held for sale, the valuable constituent, vitamin C, had been in part omitted or abstracted from the article; 403(a)—the label statement "Enriched with Vitamin "C" Each pint has been enriched with

the normal minimum daily requirement" was false and misleading; and 403 (k)—when shipped, the article contained a chemical preservative, sodium benzoate, and its labeling failed to state the fact that it contained a chemical preservative.

DISPOSITION: 2-9-60. Default—delivered to a charitable institution.

CEREALS AND CEREAL PRODUCTS

BAKERY PRODUCTS*

26205. Raspberry bars and peach-apricot bars. (F.D.C. No. 43913. S. Nos. 72-917/8 P.)

QUANTITY: 21 cases, 24 1-lb. pkgs. each, of raspberry bars, and 70 cases, 24 1-lb. pkgs. each, of peach-apricot bars, at Brooklyn, N.Y.

SHIPPED: 10-14-59 and 11-4-59, from Passaic, N.J., by Weston Biscuit Co.

LABEL IN PART: (Pkg.) "Weston's Raspberry [or "Peach-Apricot"] Bars * * * Weston Biscuit Company, Passaic, N.J."

LIBELED: 12-7-59, E. Dist. N.Y.

CHARGE: Raspberry bar, 402(b) (2)—when shipped, dates, oats, artificial color, artificial flavor, and other ingredients, had been substituted in whole or in part for raspberries in its filling; 402(b) (4)—dates, oats, artificial color, artificial flavor, and other ingredients, had been added to the article or mixed or packed therewith so as to make the article appear better or of greater value than it was; 403(a)—the name of the article "Raspberry Bars," and the vignette displaying cookie bars appearing to contain whole raspberries, were false and misleading as applied to an article in which dates, oats, artificial flavor, artificial color, and other ingredients had been substituted for raspberries; and 403(i) (2)—the article was fabricated from two or more ingredients and its label failed to bear the common or usual name of each such ingredient since the article contained dates and other ingredients not declared on its label.

Peach-apricot bar, 402(b) (2)—when shipped, figs, oats, artificial flavor and artificial color, in addition to other ingredients, had been substituted in whole or in part for peaches and apricots in its filling; 402(b) (4)—figs, oats, artificial flavor and artificial color, in addition to other ingredients, had been added to the article, or mixed or packed therewith so as to make it appear better or of greater value than it was; 403(a)—the label statement "Ingredients: Peaches, Apricots," the name of the article "Peach-Apricot Bars," and the vignette displaying peaches and apricots and cookie bars appearing to contain a filling of peaches and apricots were false and misleading as applied to an article in which figs, oats, artificial flavor, and artificial color had been substituted for peaches and apricots; 403(i) (2)—the article was fabricated from two or more ingredients and its label failed to bear the common or usual name of each such ingredient since the article contained oats and artificial coloring which were not declared on its label; and 403(k)—the article contained artificial coloring and its labeling failed to state that fact.

DISPOSITION: 1-7-60. Default—delivered to a charitable institution.

*See also No. 26278.

FLOUR*

26206. Flour. (F.D.C. No. 43549. S. No. 64-151 P.)

QUANTITY: 109 100-lb. bags at Boston, Mass.

SHIPPED: 7-6-59, from McPherson, Kans.

LIBELED: 9-18-59, Dist. Mass.

CHARGE: 402(a) (3)—contained insects while held for sale.

DISPOSITION: 10-26-59. Consent—claimed by Kasanof's Model Bakery, Inc., Boston, Mass., and denatured for use as animal feed.

26207. Flour, cornmeal, macaroni, and prepared mixes. (F.D.C. No. 43523. S. Nos. 76-401/3 P, 76-557/8 P, 76-560 P.)

QUANTITY: 5 cases, 19 2½-lb. pkgs. each, and 9 cases, 24 14½-oz. pkgs. each, of prepared mixes; 20 cases, 24 1-lb. pkgs. each, of macaroni; 178 25-lb. bags and 108 10-lb. bags of flour, and 167 25-lb. bags of cornmeal; at Helena, Ark., in possession of Helena Wholesale, Inc.

SHIPPED: Between 10-17-58 and 7-30-59, from Memphis, Tenn., Chicago, Ill., and St. Joseph, Mo.

LIBELED: 9-4-59, E. Dist. Ark.

CHARGE: 402(a) (3)—contained insects and rodent urine; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 10-9-59. Default—delivered to a public institution for use as animal feed.

26208. Flour. (F.D.C. No. 43889. S. No. 90-106 P.)

QUANTITY: 40 100-lb. bags at Milford, Mass.

SHIPPED: 7-27-59, from Springfield, Minn.

LIBELED: 11-9-59, Dist. Mass.

CHARGE: 402(a) (3)—contained insects while held for sale.

DISPOSITION: 12-21-59. Default—delivered to a public institution for use as animal feed.

26209. Flour. (F.D.C. No. 43595. S. Nos. 83-712/5 P.)

QUANTITY: 915 25-lb. bags, 123 50-lb. bags, and 33 100-lb. bags, at Silver City, N. Mex., in possession of Alfred M. Lewis, Inc.

SHIPPED: Between 3-27-59 and 8-6-59, from Amarillo and Fort Worth, Tex.

LIBELED: 10-16-59, Dist. N. Mex.

CHARGE: 402(a) (3)—contained bird excreta, insects, and rodent urine; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 12-2-59. Consent—claimed by Alfred M. Lewis, Inc. Segregated; 155 25-lb. bags, 56 50-lb. bags, and 35 100-lb. bags denatured for use as animal feed.

26210. Flour and rice. (F.D.C. No. 43642. S. Nos. 64-193/5 P.)

QUANTITY: 116 100-lb. bags of rice and 106 100-lb. bags of flour, at Boston, Mass., in possession of Samuel Kurr & Co.

SHIPPED: Between 2-20-59 and 8-31-59, from Edgewater, N.J., Buffalo, N.Y., and Houston and Beaumont, Tex.

*See also Nos. 26216, 26217.

LIBELED: 11-5-59, Dist. Mass.

CHARGE: 402(a)(3)—contained insect larvae, insects, rodent urine and rodent excreta pellets; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 1-19-60. Consent—claimed by Samuel Kurr, t/a Samuel Kurr & Co. Segregated; the lot of flour was denatured for industrial use only, and 2,320 lbs. of rice were destroyed.

26211. Flour. (F.D.C. No. 43376. S. Nos. 58-850/1 P, 58-858 P.)

QUANTITY: 3 100-lb. bags and 207 25-lb. bags at El Paso, Tex., in possession of Heid Bros. Corp.

SHIPPED: Between 5-29-59 and 7-23-59, from Denver, Colo.

LIBELED: 8-31-59, W. Dist. Tex. Amended libel on or about 10-20-59.

CHARGE: 402(a)(3)—contained rodent urine and insects; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 1-20-60. Default—delivered to a public institution for use as animal feed.

26212. Flour. (F.D.C. No. 43957. S. Nos. 73-015/6 P.)

QUANTITY: 296 100-lb. bags at Hillside, N.J., in possession of Mittleman Bros., Inc.

SHIPPED: 6-23-59 and 8-28-59, from St. Louis, Mo. and Buffalo, N.Y.

LIBELED: 12-10-59, Dist. N.J.

CHARGE: 402(a)(3)—contained rodent urine, rodent excreta pellets, and insects; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 1-25-60. Default—destruction.

26213. Enriched flour. (F.D.C. No. 44165. S. No. 5-092 P.)

QUANTITY: 50 bales, 10 5-lb. bags each, at Charleston, W. Va.

SHIPPED: 6-23-59, from Yukon, Okla., by Yukon Mill & Grain Co.

LABEL IN PART: (Bag) "Yukon's Best Flour Enriched * * * Yukon Mill & Grain Co., Yukon, Okla."

RESULTS OF INVESTIGATION: Examination showed that the article contained approximately 83 percent of the amount of thiamine, approximately 76 percent of the amount of riboflavin, approximately 86 percent of the amount of niacin, and approximately 87 percent of the amount of iron required by the definition and standard of identity for enriched flour.

LIBELED: On or about 1-5-60, S. Dist. W. Va.

CHARGE: 402(b)(1)—when shipped, the valuable constituents, thiamine, riboflavin, niacin, and iron, had been in part omitted or abstracted from the article; 403(f)—the mandatory information required to appear on the labeling under 403(j) was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; and 403(g)(1)—the article failed to conform to the definition and standard of identity for enriched flour since it contained less than the amounts of thiamine, riboflavin, niacin, and iron as stated on its label.

DISPOSITION: 2-1-60. Default—delivered to charitable institutions.

26214. Corn flour. (F.D.C. No. 43615. S. Nos. 64-252 P, 64-254 P.)

QUANTITY: 93 100-lb. bags and 40 25-lb. bags of corn flour, at Brockton, Mass.

SHIPPED: Between 7-30-59 and 8-31-59, from Lemoyne and Shiremanstown, Pa.

LIBELED: 10-26-59, Dist. Mass.

CHARGE: 402(a)(3)—contained insects and insect larvae while held for sale.

DISPOSITION: 12-7-59. Default—delivered to a public institution for use as animal feed.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS*

26215. Donut mix, waffle mix, biscuit mix, meat loaf mix, batter mix, cranberry beans, and lima beans. (F.D.C. No. 43092. S. Nos. 16-731/2 P, 16-734/8 P.)

INFORMATION FILED: 7-9-59, E. Dist. Tenn., against H. T. Hackney Co., a corporation, Knoxville, Tenn., and Myron J. Marks, vice president and general manager of the corporation.

ALLEGED VIOLATION: Between 7-15-57 and 10-16-58, while quantities of donut mix, waffle mix, biscuit mix, meat loaf mix, batter mix, cranberry beans, and lima beans were being held for sale after shipment in interstate commerce, the defendants caused the articles to be held in a building that was accessible to rodents and insects and to be exposed to contamination by rodents and insects, which acts resulted in the articles being adulterated.

CHARGE: 402(a)(3)—the waffle mix, biscuit mix, meat loaf mix, cranberry beans, and lima beans contained insects; and 402(a)(4)—all articles held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 11-20-59. Corporation—\$350 fine; individual—\$350 fine.

26216. Prepared mixes and flour. (F.D.C. No. 43633. S. Nos. 68-186/9 P, 68-191/200 P, 68-281/5 P.)

QUANTITY: 920 100-lb. bags of flour, and 24 50-lb. bags and 288 100-lb. bags of mix, at Philadelphia, Pa., in possession of Merchants Warehouse.

SHIPPED: Between October 1958 and September 1959, from Springfield, Delaware, Decatur, and Paris, Ill.; Minneapolis, Minn.; Buffalo, N.Y.; and Washington, D.C.

LIBELED: 11-9-59, E. Dist. Pa.

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 12-1-59. Default—destruction.

26217. Dinner roll mix, pancake mix, enriched farina, buckwheat mix, bran muffin mix, pearled barley, rolled whole wheat, rolled oats, and flour. (F.D.C. No. 43085. S. Nos. 16-743/4 P, 16-746/51 P, 16-753 P, 16-755 P.)

INDICTMENT RETURNED: 9-14-59, E. Dist. Ky., against Justin M. Schneider, t/a Central Sales, Covington, Ky.

*See also Nos. 26207, 26210.

ALLEGED VIOLATION: On 10-28-58, the defendant caused quantities of the above-mentioned products, while held for sale after shipment in interstate commerce, to be held in a building that was accessible to insects, rodents, and birds, and to be exposed to contamination by insects, rodents, and birds, which act resulted in the products being adulterated.

CHARGE: 402(a)(3)—some of the products, namely, the dinner roll mix, enriched farina, buckwheat mix, bran muffin mix, and pearled barley contained one or more of the following: saw-tooth grain beetles, saw-tooth grain beetle larvae, tribolium beetles, tribolium beetle larvae, tribolium beetle pupae, and cadelle beetle larvae; and 402(a)(4)—all of the above-mentioned products were held under insanitary conditions.

PLEA: Not guilty.

DISPOSITION: On 12-15-59, the defendant filed a motion for dismissal of the indictment on the grounds (1) that each count of the indictment stated the same identical offense; (2) that the court had no jurisdiction because the acts alleged were committed in regard to foods which were not in or affecting interstate commerce; and (3) that the indictment did not state facts sufficient to constitute an offense against the United States. Such motion was overruled by the court.

On 12-16-59, the case came on for trial before the court and jury. The trial was concluded on 12-21-59, with the return of a verdict of guilty on counts 2, 7, 8, and 9 involving the holding of pancake mix, rolled whole wheat, rolled oats, and flour under insanitary conditions, and a verdict of not guilty with respect to counts 1, 3, 4, 5, and 6 involving the other products described above.

On 12-21-59, the court imposed a fine of \$750 on each of counts 2, 7, 8, and 9 for a total of \$3,000, plus costs. The defendant then filed a motion in arrest of judgment on the ground that only one offense had been committed and that sentence on 3 of the 4 counts should be vacated. On 12-31-59, the court handed down the following decision on the motion:

SWINFORD, *Judge*: "The motion of the defendant to correct the sentences given in this case should be overruled. Each count on which the defendant was convicted was the separate offense of holding for sale a certain unit of food which was adulterated within the meaning of the statute. It would be difficult to construe the language of the statute as having any other meaning. It contemplates each *article* and not food generally held for sale. It may, of course, be said that all of the food that the defendant held for sale was adulterated by being kept in a place that was filthy and insanitary within the meaning of the law, but that is not this case. The indictment charged that he held different types of food and expressly described and named the food referred to as being unfit for human consumption. 21 USCA 331(k).

"The adulteration of four different articles of food constituted four separate, distinct violations of the Act for which separate penalties might be imposed. U.S. v. Direct Sales Co., 252 F. 882.

"It must be borne in mind that the purposes of this legislation are for the protection of a public that is helpless to ascertain the contents of food which is held out by sellers for human consumption. Transactions for the purchase of food under conditions contemplated by the facts in this case are the antithesis of the doctrine of caveat emptor. The emphasis of the statute is not upon punishment by way of criminal prosecution or damages as in cases of mala in se but upon the achievement of some social betterment. U.S. v. Balint, 258 U.S. 250.

"To adopt the reasoning of the defendant on this motion would be to sacrifice the whole purpose of the law. In the case of Eleazar Smith v. The People

of the State of California, not yet reported but decided by the Supreme Court on December 14, 1959, we find the following pertinent language:

"The usual rationale for such statutes is that the public interest in the purity of its food is so great as to warrant the imposition of the highest standard of care on distributors—in fact an absolute standard which will not hear the distributor's plea as to the amount of care he has used. Cf. *United States v. Balint*, 258 U.S. 250, 252-253, 254. His ignorance of the character of the food is irrelevant. There is no specific constitutional inhibition against making the distributors of food the strictest censors of their merchandise"

An order in conformity with this memorandum is this day entered.

26218. Rice. (F.D.C. No. 43966. S. No. 69-732 P.)

QUANTITY: 7 100-lb. bags at Camden, N.J.

SHIPPED: 10-22-59, from Huntingdon Valley, Pa.

LIBELED: 12-15-59, Dist. N.J.

CHARGE: 402(a)(3)—contained rodent urine while held for sale.

DISPOSITION: 1-20-60. Default—delivered to a public institution for use as animal feed.

26219. Rice. (F.D.C. No. 44136. S. No. 60-039 P.)

QUANTITY: 49 bales, 20 3-lb. bags each, at Raleigh, N.C.

SHIPPED: 6-29-59, from Stuttgart, Ark.

LIBELED: 12-28-59, E. Dist. N.C.

CHARGE: 402(a)(3)—contained live insects while held for sale.

DISPOSITION: 2-11-60. Default—destruction.

26220. Wheat. (F.D.C. No. 43447. S. No. 76-612 P.)

QUANTITY: 124,800 lbs. at Spokane, Wash.

SHIPPED: 9-2-59, from Dutton, Mont., by Dutton Farmers Elevator Co.

LIBELED: 9-18-59, E. Dist. Wash.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 10-7-59. Consent—claimed by Atwood Larson Co., Inc., Spokane, Wash. Segregated; 20,680 lbs. converted into animal feed.

26221. Wheat. (F.D.C. No. 43789. S. No. 52-710 P.)

QUANTITY: 45,600 lbs. at Minneapolis, Minn.

SHIPPED: 10-20-59, from Wessington Springs, S. Dak., by Jensen Grain Co.

LIBELED: 11-3-59, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 11-5-59. Consent—claimed by Jensen Grain Co. and converted into animal feed.

CHOCOLATE PRODUCTS, CONFECTIONERY, HONEY AND SIRUP

CHOCOLATE PRODUCTS

26222. Cocoa beans. (F.D.C. No. 43597. S. Nos. 73-495/6 P.)

QUANTITY: 130 140-lb. bags at Brooklyn, N.Y.

SHIPPED: 12-19-55 and 1-8-59, from outside the United States.

LIBELED: 10-19-59, E. Dist. N.Y.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 11-10-59. Consent—claimed by General Cocoa Co., Inc., New York, N.Y. Segregated; 605 lbs. destroyed.

26223. Cocoa beans. (F.D.C. No. 43632. S. No. 73-499 P.)

QUANTITY: 30 140-lb bags at Brooklyn, N.Y.

SHIPPED: 7-31-57, from outside the United States.

LIBELED: 11-12-59, E. Dist. N.Y.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 12-9-59. Consent—claimed by Ernest Adler Co., Inc., New York, N.Y. Segregated; 115 lbs. destroyed.

CONFECTIONERY

26224. Candy. (F.D.C. No. 43264. S. Nos. 28-909/10 P, 56-477/80 P, 71-990 P.)

INFORMATION FILED: 1-6-60, M. Dist. Ga., against McAfee Candy Co., Inc., Macon, Ga.

SHIPPED: Between 5-12-59 and 6-3-59, from Georgia to Louisiana, North Carolina, Missouri, and Arkansas.

LABEL IN PART: "Tom's COCOANUT HUTS [or "COCONUT JOE"] Dist. by Tom Huston Peanut Co., Columbus, Ga."; "McAfee's Wellmade TOASTIE Honeycombed Peanut Butter McAfee Candy Co., Inc., Macon, Georgia;" "16 Lb. BULK HAYSTAX McAfee Candy Company, Inc. Macon Ga."; "Tom's PEPPERMINTS Mints Distributed by Tom Huston Peanut Co., Columbus, Ga. 120 Count"; and "Tom's PEPPERMINTS 120 Count Tom's For Taste."

CHARGE: 402(a)(3)—contained insects, insect parts, and rodent hair fragments; and 402(a)(4)—prepared and packed under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 1-6-60. \$5,000 fine.

HONEY AND SIRUP

26225. Honey. (F.D.C. No. 43482. S. No. 76-365 P.)

QUANTITY: 80 60-lb. cans at St. Louis, Mo.

SHIPPED: 11-6-57, from Corning, Ark., by C. Fred Rogers.

RESULTS OF INVESTIGATION: Examination showed that the article was fermenting.

LIBELED: 10-19-59, E. Dist. Mo.

CHARGE: 402(a)(3)—contained a decomposed substance while held for sale; 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents; and 403(i)—when shipped, its label failed to bear the common or usual name of the food.

DISPOSITION: 11-5-59. Consent—claimed by Carl F. Hoffman, t/a Hoffman Brokerage Co., St. Louis, Mo. Segregated; 25 cans destroyed.

26226. Sorghum sirup. (F.D.C. No. 43107. S. No. 28-320 P.)

INFORMATION FILED: 6-29-59, E. Dist. Okla., against Dan W. Lehman, Haileyville, Okla.

SHIPPED: 11-5-58, from Oklahoma to Texas.

LABEL IN PART: (Can) "Dalton's Best Maid COUNTRY SORGHUM Made From Cane CONTENTS APPROX. 1 Qt. and 1 Pt. Packed For BEST MAID PRODUCTS FT. WORTH, TEXAS."

CHARGE: 402(b)(2)—when shipped, a substance other than sorghum had been substituted in part for sorghum which the article was represented to be. (Examination showed that the article contained invert sugar sirup.)

PLEA: Not guilty.

DISPOSITION: On 9-14-59, the case came on for trial before the court and jury. At the conclusion of the Government's testimony a motion for acquittal was made on behalf of the defendant and was sustained.

EGGS

26227. Frozen eggs (2 seizure actions). (F.D.C. Nos. 43471, 43484. S. Nos. 66-116/7 P, 66-166 P.)

QUANTITY: 885 30-lb. cans at Pittsburgh, Pa.

SHIPPED: Between 9-8-59 and 9-28-59, from Coldwater, Ohio.

LIBELED: 10-8-59 and 10-19-59, W. Dist. Pa.

CHARGE: 402(a)(3)—contained decomposed eggs while held for sale.

DISPOSITION: 10-29-59. Harry Cohen, t/a Haco Food Products Co., Pittsburgh, Pa., having appeared as claimant and the seizure actions having been consolidated, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation and denaturing of the unfit portion. The segregation operations resulted in the denaturing of 337 cans.

26228. Frozen eggs. (F.D.C. No. 43935. S. No. 58-275 P.)

QUANTITY: 350 30-lb. cans at Brooklyn, N.Y.

SHIPPED: 8-18-59, from Forest Park, Ga., by Superior Eggs, Inc.

LABEL IN PART: "Superior * * * Whole Eggs * * * Packed by Superior Eggs Inc Forest Park, Ga Ga. Dept of Agriculture Permit 869 T."

LIBELED: 12-10-59, E. Dist. N.Y.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 1-12-60. Consent—claimed by Washington Creamery Phila. Corp., Philadelphia, Pa. Segregated; 102 cans denatured.

FEEDS AND GRAINS

26229. Shelled yellow corn. (F.D.C. No. 41232. S. No. 55-065 M.)

QUANTITY: 1,100 bushels at Trenton, Ky.

SHIPPED: Between May and June 1957, from New Albany, Ind., by Garrison Elevator Co.

LIBELED: 12-18-57, W. Dist. Ky.

CHARGE: 402(a)(2)—when shipped, the article was a raw agricultural commodity and contained a pesticide chemical, namely, thiram, which is unsafe within the meaning of 408 since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on shelled yellow corn has been prescribed by regulations.

DISPOSITION: 5-2-58. Default—destruction.

26230. Shelled corn. (F.D.C. No. 43082. S. Nos. 55-065/6 M.)

INFORMATION FILED: 7-7-59, E. Dist. Ill., against Pioneer Hi-Bred Corn Co. of Illinois, a corporation, Princeton, Ill.

SHIPPED: Between 6-26-57 and 6-29-57, from Illinois to Kentucky.

CHARGE: 402(a)(2)—the article was a raw agricultural commodity and it bore and contained a pesticide chemical, thiram, which is unsafe within the meaning of 408 since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on shelled corn has been prescribed.

PLEA: Guilty.

DISPOSITION: 11-19-59. \$500 fine, plus costs.

26231. Shelled corn. (F.D.C. No. 43113. S. Nos. 55-065/6 M.)

INFORMATION FILED: 7-7-59, E. Dist. Ill., against Garrison Elevator Co., Inc., New Albany, Ind.

SHIPPED: Between 6-26-57 and 6-29-57, from Illinois to Kentucky.

CHARGE: 402(a)(2)—the article was a raw agricultural commodity and, when shipped, bore and contained a pesticide chemical, namely, thiram, which is unsafe within the meaning of 408 since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on shelled corn has been prescribed.

PLEA: Nolo contendere.

DISPOSITION: 12-1-59. \$500 fine, plus costs.

FISH AND SHELLFISH

26232. Frozen lake trout and frozen whitefish. (F.D.C. No. 43637. S. Nos. 62-843/6 P, 62-848/50 P, 62-852/4 P, 62-856 P, 62-858/60 P, 75-001/3 P.)

QUANTITY: 543 60-lb. boxes of lake trout, and 200 60-lb. boxes of whitefish, at Chicago, Ill.

SHIPPED: 9-10-59 and 9-14-59, from Canada.

LIBELED: 11-2-59, N. Dist. Ill.

CHARGE: 402(a)(3)—contained decomposed fish while held for sale.

DISPOSITION: 12-1-59. Default—destruction.

26233. Dressed whitefish. (F.D.C. No. 43413. S. No. 60-957 P.)

QUANTITY: 2,242 lbs. in 50-lb. boxes at Detroit, Mich.

SHIPPED: 7-20-59, from Winnipeg, Canada, by Northland Fish, Ltd.

LABEL IN PART: (Box) "Canadian Fish Producers, Ltd. * * * Lakefood Brand Fresh and Frozen Fish * * * Med. Dr. Whites * * * Winnipeg, Manitoba", and "Northland Fish Ltd., Winnipeg, Man * * * East Lake Ontario."

LIBELED: 7-31-59, E. Dist. Mich.

CHARGE: 402(a)(3)—contained parasitic cysts when shipped.

DISPOSITION: 11-27-59. Default—destruction.

26234. Frozen whitefish. (F.D.C. No. 43663. S. No. 63-085 P.)

QUANTITY: 35 60-lb. boxes at Chicago, Ill.

SHIPPED: 10-16-59, from Winnipeg, Canada, by Canadian Fish Producers, Ltd.

LABEL IN PART: "Canadian Fish Producers Ltd. Winnipeg Man. 60 Med. Dr.

Whites, Red Sucker Lake, Manitoba, 140 * * * Lakefood Brand."

LIBELED: 11-6-59, N. Dist. Ill.

CHARGE: 402(a)(3)—contained parasitic cysts when shipped.

DISPOSITION: 12-3-59. Consent—claimed by Pick-Shapiro Fisheries, Inc., Chicago, Ill., and exported to original supplier in Canada.

26235. Frozen haddock fillets. (F.D.C. No. 43902. S. No. 64-363 P, 90-148 P.)

QUANTITY: 42 cases, 12 1-lb. ctns. each, at Boston, Mass.

SHIPPED: These fillets were from fish caught by the fishing vessel "Minnie" during the period of 10-5-59 to 10-11-59 in the waters of the Atlantic Ocean outside the territorial limits of Massachusetts, and unloaded at the Boston Fish Pier on 10-13-59.

LIBELED: 11-13-59, Dist. Mass.

CHARGE: 402(a)(3)—contained decomposed fillets when shipped.

DISPOSITION: 1-25-60. Default—delivered to a public institution for use as animal feed.

26236. Frozen salmon. (F.D.C. No. 43649. S. No. 85-230 P.)

QUANTITY: 22 boxes, 2,035 lbs. total, at New York, N.Y.

SHIPPED: 9-9-59, from Vancouver, Canada.

RESULTS OF INVESTIGATION: The article was shipped unfrozen, and after arrival at New York, N.Y., was frozen and repacked into boxes.

LIBELED: 11-9-59, S. Dist. N.Y.

CHARGE: 402(a)(3)—contained decomposed fish while held for sale.

DISPOSITION: 12-4-59. Default—destruction.

26237. Frozen cod and frozen hake fillets. (F.D.C. No. 43952. S. Nos. 85-222 P, 85-601 P.)

QUANTITY: 462 20-lb. boxes at the Bronx, N.Y.

SHIPPED: Between 7-28-59 and 8-6-59, from Canada.

LIBELED: 12-15-59, S. Dist. N.Y.

CHARGE: 402(a)(3)—contained decomposed fish while held for sale; and 403(a)—the label statements "Fresh Cod Fillets" and "Fresh Hake Fillets" were false and misleading as applied to the articles which were frozen cod and hake fillets.

DISPOSITION: 1-22-60. Default—destruction.

26238. Frozen whale meat (2 seizure actions). (F.D.C. Nos. 43004, 43042. S. Nos. 61-082/3 P.)

QUANTITY: 50 69-lb. ctns. at Traverse City, Mich., and 6,000 lbs. at New Era, Mich.

SHIPPED: 3-9-59 and 3-12-59, from Fond du Lac, Wis., by National Food Sales.

LABEL IN PART: "Frozen Sperm Whale Meat * * * Product of Japan ICM 883 New York;" (sticker label) "Passed T-5 [or "T25"] Feb. 5, 59 Japan Export Frozen Marine Products Inspection Corporation."

LIBELED: 5-8-59 and 5-29-59, W. Dist. Mich.

CHARGE: 402(a)(3)—contained decomposed whale meat when shipped.

DISPOSITION: 9-11-59. Consent—claimed by Interocean Chemical and Mineral Corp., New York, N.Y., and exported to original supplier in Japan.

26239. Herring and canned smoked salmon. (F.D.C. No. 43123. S. Nos. 33-391 P, 57-803 P.)

QUANTITY: 10 cases, 12 9-oz. pkgs. each, of herring; and 14 ctns., 18 ½-lb. cans each, of salmon, at Linden, N.J.

SHIPPED: The herring was shipped 3-24-59 from New York, N.Y. by Ameln Bros., Inc., and the salmon was shipped 3-27-59, from New York, N.Y., by Vita Food Products, Inc.

LABEL IN PART: (Pkg.) "Abba * * * Iceland Matjes Herring * * * Product of Sweden * * * Imported by Ameln Brothers, Inc., N.Y."; (can) "Vita Nova Scotia Salmon Sliced-Smoked * * * Packed by Vita Food Products, Inc., New York, N.Y."

LIBELED: 4-24-59, Dist. N.J.

CHARGE: 402(a) (2)—when shipped, the articles contained sodium nitrite, an added poisonous and deleterious substance which is unsafe within the meaning of 406.

DISPOSITION: 6-9-59. Default—destruction.

26240. Caviar. (F.D.C. No. 42630. S. No. 39-380 P.)

QUANTITY: 66 4-oz. jars, 42 2-oz. jars, and 337 1-oz. jars, at San Francisco, Calif.

SHIPPED: 5-3-58, from Antwerp, Belgium, by Thornley & Pitt.

LABEL IN PART: (Lid) "Caviar Malossol, Product of the USSR, sole distributor V/O Prodintorg, Moscow, USSR."

LIBELED: 12-8-58, N. Dist. Calif.

CHARGE: 402(a) (2)—when shipped, the article contained an added poisonous or deleterious substance, borate, which is unsafe within the meaning of 406 since such substance is not required in the production of the article and can be avoided by good manufacturing practices.

DISPOSITION: 2-4-60. Default—destruction.

26241. Frozen shrimp. (F.D.C. No. 44154. S. Nos. 84-406/7 P.)

QUANTITY: 43 60-lb. ctns., 10 6-lb. wax paper wrapped pkgs. each, at Norfolk, Va.

SHIPPED: 12-8-59, from Jacksonville, Fla.

LIBELED: 1-4-60, E. Dist. Va.

CHARGE: 402(a) (3)—contained decomposed shrimp while held for sale.

DISPOSITION: 3-4-60. Default—destruction.

26242. Frozen lobster tails. (F.D.C. No. 43661. S. Nos. 85-228 P, 85-234 P.)

QUANTITY: 115 5-lb. boxes at New York, N.Y.

SHIPPED: From outside the United States.

LABEL IN PART: "Frozen Lobster Tails Packed for Portland Fish Co., Portland, Maine * * * Product of Denmark."

LIBELED: 11-20-59, S. Dist. N.Y.

CHARGE: 402(a) (3)—contained dirt when shipped.

DISPOSITION: 12-16-59. Default—destruction.

26243. Oysters. (F.D.C. No. 40153. S. Nos. 53-024/25 M.)

INFORMATION FILED: On or about 10-4-57, E. Dist. La., against Bertoul J. Cheramie, Jr., t/a Daigleville Packing Co., Houma, La.

SHIPPED: 11-14-56, from Louisiana to Mississippi.

LABEL IN PART: (Jar lid) "HO-MA Brand OYSTERS Daigleville Packing Co. Houma, Louisiana LA 138 ONE PINT."

CHARGE: 402(b)(4)—water had been added to the oysters and mixed and packed with them so as to increase their bulk and reduce their quality and make them appear of greater value than they were.

PLEA: Guilty.

DISPOSITION: 9-23-59. \$500 fine.

26244. Oysters. (F.D.C. No. 43068. S. No. 5-155 P.)

INDICTMENT FILED: 7-21-59, E. Dist. Va., against H. Allen Smith, Oyster, Va.

SHIPPED: 12-11-58, from Virginia to Ohio.

LABEL IN PART: (Can) "PIONEER BRAND OYSTERS PACKED FOR THE CANTON PROVISION CO. CANTON, OHIO VA. 585."

CHARGE: 403(g)(1)—the article failed to conform to the definition and standard of identity for oysters since, in the preparation of the oysters, the containers for the oysters, upon being shucked, were filled with water, or salt water in excess of $\frac{1}{4}$ of the volume of the oysters or liquid when emptied, and the total time that the oysters were in contact with water, or salt water containing less than 0.75 percent salt, after leaving the shucker was more than 30 minutes.

PLEA: Guilty.

DISPOSITION: 10-20-59. \$1,000 fine.

26245. Oysters. (F.D.C. No. 43067. S. No. 5-156 P.)

INFORMATION FILED: 10-14-59, E. Dist. Va., against William V. Birch, t/a William C. Bunting, Chincoteague, Va.

SHIPPED: 12-17-58, from Virginia to New York.

LABEL IN PART: (Can) "Tom's Cove Oysters OWNED AND OPERATED BY WILLIAM V. BIRCH PACKED BY WM. C. BUNTING CHINCOTEAGUE, VA. VA. 437 CONTENTS ONE GALLON."

CHARGE: 403(g)(1)—the article failed to conform to the definition and standard of identity for oysters since, in the preparation of the article, the total time that the oysters were in contact with water or salt water containing less than 0.75 percent salt, after leaving the shucker, was more than 30 minutes.

PLEA: Guilty.

DISPOSITION: 11-2-59. \$200 fine.

26246. Oysters. (F.D.C. No. 43072. S. No. 33-121 P.)

INFORMATION FILED: 10-14-59, E. Dist. Va., against Milton L. Drewer, Saxis, Va.

SHIPPED: 12-11-58, from Virginia to Florida.

LABEL IN PART: (Can) "Contents 12 Fl. Ozs. Oysters Packed by Milton Drewer Saxis, Va. Va. 600."

CHARGE: 403(g)(1)—the article failed to conform to the definition and standard of identity for oysters since, in the preparation of the article, the total

time that the oysters were in contact with water or salt water containing less than 0.75 percent salt, after leaving the shucker, was more than 30 minutes.

PLEA: Not guilty.

DISPOSITION: On 11-27-59, the case came on for trial before the court and jury. The trial was concluded on the same day with the return of a verdict of not guilty.

FRUITS AND VEGETABLES*

CANNED FRUIT

26247. Canned peaches. (F.D.C. No. 42687. S. No. 34-941 P.)

QUANTITY: 1,746 cases, 24 1-lb. 14-oz. cans each, at New Cumberland, Pa.

SHIPPED: 10-29-58, from Modesto, Calif., by Robert B. Boyer Co.

LABEL IN PART: (Can) "Frontier Halves Yellow Freestone Peaches."

LIBELED: 2-5-59, M. Dist. Pa.

CHARGE: 402(a)(3)—contained insects, insect parts, fly eggs, and maggots; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 7-24-59. Consent—claimed by Robert B. Boyer Co. Segregated; 220 cases plus 5 cans destroyed.

26248. Canned peaches. (F.D.C. No. 44228. S. No. 96-787 P.)

QUANTITY: 1,100 cases, 24 1-lb. 13-oz. cans each, at Elizabethport, N.J.

SHIPPED: 11-19-59, from Luray, Va., by Moyer Bros.

LABEL IN PART: (Can) "Page Valley Brand Yellow Freestone Peaches Halves in Heavy Syrup Packed by Moyer Bros., Luray, Virginia."

LIBELED: 2-10-60, Dist. N.J.

CHARGE: 403(h)(1)—when shipped, the quality of the article fell below the definition and standard of quality for canned peaches, since all peach units of the article tested in accordance with the method prescribed in such standard were not pierced by a weight of not more than 300 grams; and the weight of the largest unit in some containers was more than twice the weight of the smallest unit therein, and its label failed to bear, as specified by regulations, a statement that it fell below such standard.

DISPOSITION: 3-1-60. Consent—claimed by Clarence M. Moyer, Warren A. Moyer, Winfield L. Moyer, and T. C. Moyer, t/a Moyer Bros., and relabeled.

DRIED FRUIT

26249. Dried currants. (F.D.C. No. 43401. S. No. 52-115 P.)

QUANTITY: 17 30-lb. cases at Moorhead, Minn., in possession of United Supply Co.

SHIPPED: 10-17-58, from Del Rey, Calif.

LIBELED: 7-24-59, Dist. Minn.

CHARGE: 402(a)(3)—contained moldy currants while held for sale.

DISPOSITION: 11-9-59. Default—destruction.

26250. Pitted dates. (F.D.C. No. 43866. S. No. 54-578 P.)

QUANTITY: 18 cases, 48 8-oz. pkgs. each, at Pine Bluff, Ark.

SHIPPED: 9-11-58, from outside the State of Arkansas.

*See also No. 26215.

LIBELED: 12-4-59, E. Dist. Ark.

CHARGE: 402(a) (3)—contained insects while held for sale.

DISPOSITION: 1-20-60. Default—delivered to a charitable institution for use as animal feed.

26251. Apple pomace. (F.D.C. No. 44148. S. No. 69-755 P.)

QUANTITY: 800 50-lb. bags at Gaithersburg, Md.

SHIPPED: 12-9-59, from Fleetwood, Pa., by Berks-Lehigh Cooperative Fruit Growers, Inc.

LABEL IN PART: "Red Creek Brand Apple Pomace * * * Packed by Berks-Lehigh Cooperative Fruit Growers, Inc., 130 East Locust Street, Fleetwood, Pa."

LIBELED: 1-5-60, Dist. Md.

CHARGE: 402(a) (2)—when shipped, the article contained an added poisonous and deleterious substance, DDT, which is unsafe within the meaning of 408 since the quantity of DDT contained on the article was greater than the tolerance fixed for such pesticide chemical on apples.

DISPOSITION: 1-28-60. Default—destruction.

26252. Seedless raisins. (F.D.C. No. 43967. S. No. 90-447 P.)

QUANTITY: 19 30-lb. ctns. at Fall River, Mass.

SHIPPED: 12-24-58, from Clovis, Calif.

LIBELED: 12-14-59, Dist. Mass.

CHARGE: 402(a) (3)—contained insects and mold while held for sale.

DISPOSITION: 1-25-60. Default—destruction.

FROZEN FRUIT

26253. Frozen strawberries. (F.D.C. No. 42238. S. No. 38-419 P.)

QUANTITY: 233 30-lb. tins at Rogers, Ark.

SHIPPED: 5-25-58, from Stilwell, Okla.

RESULTS OF INVESTIGATION: After the article was received by the consignee, the article was packed into 30-lb. cans and placed in storage for freezing.

LIBELED: 10-20-58, W. Dist. Ark.

CHARGE: 402(a) (3)—contained rotten berries while held for sale.

DISPOSITION: The Kelly Canning Co., Prairie Grove, Ark., claimant, filed an answer denying that the article was adulterated as alleged in the libel. The case came on for trial before the court without a jury on 7-1-59, and was concluded on the same day. The case was taken under advisement by the court and on 8-28-59, the following findings of fact and conclusions of law were handed down by the court:

MILLER, District Judge:

FINDINGS OF FACT

1.

"The libeled article of food, consisting of 233 tins labeled in part, 'Grove Brand * * * Whole Blakemore Strawberries Net Weight 30 lbs. Code 5258 Kelly Canning Co., Prairie Grove, Arkansas,' was shipped in interstate commerce on or about May 25, 1958, by the Adair County Commission Company from Stilwell, Oklahoma, to the Kelly Canning Company, Prairie Grove,

Arkansas, where the berries were packed and subsequently shipped for freezing to the Rogers Ice and Cold Storage Company, Rogers, Arkansas. The code number '5258' was adopted to indicate that the berries were shipped to the claimant on the 25th day of the 5th month of the year 1958.

2.

"The Kelly Canning Company received the strawberries in question on May 26, 1958, and processed and packed them that evening. The processing and packing operation consisted of receiving, dumping, sorting, and washing the strawberries, and then adding sugar and placing them in 30-lb. tins. Sam Dickey, a sanitarian for the Arkansas State Board of Sanitation, observed the processing of lot No. 5258 at the Kelly Canning Company. Dickey reported to the owner of the cannery, John Kelly, that 'questionable' strawberries were being packed. Following the processing operation in Prairie Grove, Arkansas, the strawberries were loaded on a truck and transported to the Rogers Ice and Cold Storage Company in Rogers, Arkansas. Dickey followed the truck to Rogers, and quarantined the 233 tins in lot No. 5258. The following day Mr. Dickey took samples of the berries he had quarantined and submitted them to the Arkansas State Board of Health.

3.

"On June 23, 1958, Loren Gibson, agricultural grader for the U.S. Department of Agriculture, stationed in Fayetteville, Arkansas, took samples from 10 of the questioned tins located at the Rogers Ice and Cold Storage Company. Gibson chipped about 3 pounds from the top of the 10 tins and took the samples to his laboratory where he examined them. He checked 5 of the samples for 'quality factors,' color, firmness, and taste, and conducted a mold count on the remaining 5 samples, using the Howard method. This Howard test revealed a mold count range of 24 percent to 44 percent, with an average count of 32 percent. Gibson then certified the 10 tins which he had sampled, classifying 8 tins as U.S. Grade B and 2 tins as U.S. Grade C. The certificate issued by Gibson on June 23, 1958, was 'reversed as to grade' by the Inspection Division of the Agricultural Marketing Service of the U.S. Department of Agriculture on January 21, 1959. The January 1959 certificate which reversed Gibson's June 1958 certificate bears the remark, 'grade not certified account mold count of some samples slightly in excess of branch administrative guide.' This occurred after the examination of post-seizure samples as set forth in finding No. 5.

4.

"On August 26, 1958, Everett L. Atkinson, a food and drug inspector for the Federal Food and Drug Administration, stationed in Little Rock, Arkansas, took a core sample from 12 of the 233 tins in question and shipped the frozen samples in dry ice to the Division of Microbiology of the Food and Drug Administration in Washington, D.C. Four core samples were taken from each of the 12 tins.

"The samples shipped by Atkinson were received in the Microbiology Division of the Food and Drug Administration in Washington, D.C., by Frank R. Smith, a microanalyst, who has held that position since 1937. The samples were hard frozen when received. Smith thawed the samples and examined them for decomposition using the Howard Mold Count Method. By this test the strawberries are pulped, mixed thoroughly, and several tablespoonsful are taken out for microscopic examination. The microscope is set at 100 magnification, and the pulp is placed on a special microscope slide. The chemist in charge examines 25 tiny fields of view on each slide, and two slides are examined for each sample. The count of positive fields is noted, and the percentage of mold in the sample is calculated. To constitute a positive field, there must be sufficient mold to extend across $\frac{1}{6}$ th of the diameter of a field. Smith's examination revealed a mold count for the 12 samples ranging from 54 percent to 82 percent, with an average count of 67.9 percent.

"After making his examination, Smith placed a portion of each sample in a small bottle containing formaldehyde, so as to check the growth of any mold or any other decomposition in the berries, and delivered the 12 samples to

Fred Dunn, the Head of the Inspection Branch of the Fruit and Vegetable Division of the Agricultural Marketing Service, U.S. Department of Agriculture.

"Upon receipt of the samples Dunn examined them for mold, using the Howard Mold Count Method described above. His examination revealed a mold count range of from 43 percent to 80 percent, with an average count of 69.2 percent.

5.

"On January 13, 1959, in response to an order from this court, a post-seizure sample was taken from the questioned 233 tins of lot 5258 by Everett L. Atkinson of the Little Rock office of the Food and Drug Administration, and Loren Gibson of Fayetteville, Arkansas, referred to in finding of fact No. 3, a grader for the Agricultural Marketing Service of the U.S. Department of Agriculture. Samples were taken from 13 of the 233 tins. Core samples were taken as in the first instance, and in addition about 3 pounds of the top of each sample can was chipped out. The samples were marked, packed in dry ice, and shipped to the Food and Drug Administration in Washington, D.C. One of the 13 samples taken was from the same tin that had been sampled in August of 1958. The other 12 samples were from different tins.

"These samples were received in a hard frozen condition in Washington. The Food and Drug Administration retained the 'core' samples and delivered the chipped samples to the Agricultural Marketing Service.

"The even-numbered core samples were examined for mold by Frank R. Smith and the odd-numbered core samples were examined by W. G. Helsel, a long-time microanalyst in this Division. The Howard Mold Count Method was used in these examinations. The even-numbered samples examined by Smith had a mold count range of from 50 percent to 84 percent, with an average mold count of 68.8 percent. The odd-numbered samples examined by Helsel had a range of 34 percent to 94 percent, with an average mold count of 71.5 percent. Following the examination of these 'core' samples, a portion of each sample bottled in formaldehyde was delivered to Fred Dunn of the Agricultural Marketing Service where another Howard Mold Count was taken and revealed a range of 42 percent to 90 percent, with an average mold count of 71.7 percent.

"The chipped-out samples, which were delivered directly to the Agricultural Marketing Service, were examined for mold, using the same Howard Method by Fred Dunn. His examination reflected a range of 42 percent to 70 percent, with an average mold count of 57.9 percent.

6.

"The Federal Food and Drug Administration has not established any tolerance as to the percentage of mold count in strawberries which would render them 'adulterated' or 'not fit for human consumption' within the meaning of the Food, Drug and Cosmetic Act.

"The U.S. Department of Agriculture has issued an administrative guide to their graders in the field that they may certify strawberries which do not exceed an average count of 50 percent with none running higher than 60 percent, based on the Howard Mold Count Method.

7.

"The strawberries packed in the 233 tins of lot 5258 in question here reflected an average mold count, using the Howard Mold Count Method, of between 60 and 70 percent with some samples ranging between 80 and 90 percent. The tests were made from samples which were taken at random from the entire shipment and which were reasonably representative of the lot.

"Mold in strawberries indicates decomposition. The Howard Mold Count Method, which has been adopted by the Association of Official Agricultural Chemists, reflects the amount of mold in the strawberries.

8.

"The testimony of the two expert witnesses, Smith and Helsel, of the Food and Drug Administration, and of Fred Dunn, Head of the Inspection Branch of the Fruit and Vegetable Division of the Agricultural Marketing Service, U.S. Department of Agriculture, convinces the court that a high mold count indicates that there is a large amount of rot or decomposed matter present in the berries.

DISCUSSION

"Section 402(a)(3) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 342(a)(3), provides that a food shall be deemed to be adulterated 'if it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for food.' The act must be interpreted liberally in the interest of the Congressional purpose to prohibit the transportation of adulterated foods in interstate commerce. *United States v. 935 Cases of Tomato Puree*, 65 F. Supp. 503 (D.C.N.D. Ohio 1946).

"In the past it has frequently been argued that the phrase 'if it is otherwise unfit for food' qualifies the preceding part of the sentence, and means in effect that the product must not only be decomposed, but must be decomposed to the extent of being unfit for food. The courts have just as frequently held, however, that the statute means that food which contains filthy, putrid, or decomposed matter is to be deemed adulterated whether or not it is fit for food. *Salamonie Packing Co. v. United States*, 165 F. 2d 205 (8 Cir. 1948), cert. den. 333 U.S. 863 (1948); *Bruce's Juices v. United States*, 194 F. 2d 935 (5 Cir. 1952); *United States v. 449 Cases Tomato Paste*, 212 F. 2d 567 (2 Cir. 1954). In *Salamonie Packing Co. v. United States*, supra, the Court of Appeals for this Circuit stated at page 206:

We think that the court in that case has fully demonstrated that the statute means that food which contains filthy, putrid, or decomposed matter is to be deemed adulterated, whether or not it is fit for food. Apparently, for years, food processors have been endeavoring, unsuccessfully, to secure a ruling which would compel the Government, in cases such as this, to prove that an accused article of food contained so much decomposed matter as to make it unfit for human consumption.

"Therefore, the only question to be determined in this case is whether the 233 tins of strawberries contained decomposed matter. The burden of proof in this case was upon the Government to prove by a preponderance of the evidence that the strawberries in question did contain in whole or in part a decomposed substance. In this class of cases the Government has no extraordinary burden but only the usual one of proving its case by a fair preponderance of the evidence. *United States v. 449 Cases Tomato Paste*, supra.

"The claimant has argued very earnestly and ably in his brief that since strawberries do not have a strong protective coating, and that since the surface of the fruit is moist, it is much easier for mold filaments to germinate and survive on the surface of strawberries without actually penetrating the flesh of the berries than on the surface of other fruit. The claimant contends that the mold detected here was only on the surface of the strawberries. However, W. G. Helsel, a microanalyst for the Food and Drug Administration for 21 years, and who was instructed in the use of the Howard method by its originator, testified:

Q. Have you had, in your experience, occasion to examine field laboratory conditions and make field tests with respect to frozen strawberries?

A. Yes, I have.

Q. And have you made tests on strawberries which you have observed in the field to determine what their condition is and what the resulting conditions are from the conditions which you observed in the field?

A. Yes, I have.

Q. With respect to strawberries containing rot, what would you expect to find if those strawberries were picked—properly packed for sweetened frozen strawberries?

A. If they were properly packed I would expect to find a very low mold count and very little rot in the strawberries.

Q. Would the percentage of mold count which you would expect to find have any relation to the number of rotten berries that were packed in a particular container?

A. Yes, it would.

Q. Would that be a direct mathematical relation?

A. Well, there could be some variation, depending upon the size of the rot spots on the berries and the type of rot involved, but in general it is a close correlation between the amount of rot in the strawberries and the mold count.

Q. Now, the mold that you find in the strawberries, that is, processed strawberries such as the 233 cans of strawberries which were seized in this case, what does that come from, what does that mold derive from?

A. The mold comes from the rot in the strawberries themselves, from the rotten tissues.

Q. Are there other kinds of molds which might be present on the particular strawberry, either at the time it was packed or after it was processed?

A. Other kinds of mold?

Q. Yes. That wouldn't be the result of rotten berries?

A. Well, any mold in the strawberry tissues would be an indication that there was some rot present, and you can have mold spores on the surface of this strawberry, but if your mold spore or if the mold filament had not penetrated the berry tissue as such, you will not have rot, but merely the presence of mold spores which you have in the air, which you are likely to have on most anything that is exposed to the air.

Q. Would I be correct in assuming that if you merely had the mold spores on the surface of the strawberries which had not penetrated the berry, that you would not have a percentage of mold count disclosed by an examination under the Howard Mold Count Method?

A. That is right. The mold spores would not enter into the mold count.

Q. Have you ever personally examined any strawberries that had a zero mold count?

A. Yes, I have.

Q. Based on your knowledge and experience, Mr. Helsel, does the mold count which you were able to determine in processed strawberries by the Howard Mold Count Method, accurately reflect the amount of rot or decomposition in the strawberries themselves?

A. Yes, it does.

"The Howard Mold Count Method has been approved by the Association of Official Agricultural Chemists (Book of Methods of the Association of Official Agricultural Chemists, 7 Ed., Sec. 35.64, p. 723). In discussing the use of this test in determining the existence of decomposed matter in tomatoes, the court in *United States v. 1,500 Cases, more or less, Tomato Paste*, 236 F. 2d 208 (7 Cir. 1956), at pages 211-212 said :

A tomato containing rot is simply a tomato parts of which have begun to decompose. This is not at all uncommon and such fruits are perfectly good if all of the decomposed portions can be cut out. Several different things cause tomatoes to decompose but by far the most common cause is mold. Because of this fact there has been developed a technique known as the Howard Mold Count which purports to estimate the amount of decomposition or rotting that has gone on in the tomatoes from which paste or juice has been made by measuring the amount of mold present in the finished product. The presence of mold proves that some rotting has taken place, but the absence of mold does not prove that no rotting has occurred. Add to this the fact that the Howard Mold Count system is susceptible to a fair degree of error in determining the amount of mold in a substance, and we have a rather inadequate method of measuring the amount of decomposition. Nevertheless, it seems to be the only practical method known at the present time, and has received the approval of both the Government and the food industry.

"The claimant introduced testimony as to the color, firmness, taste, and general condition of the strawberries in question in an effort to establish that

the berries were fit for food. One of the tins and its contents were exhibited to the court, and to a layman the berries did appear to be not only fit for food but had every appearance of being palatable. However, the conclusion that the court has reached makes it unnecessary to determine whether the berries were and are fit for food.

"In *United States v. 935 Cases, more or less, of Tomato Puree*, 65 F. Supp. 503 (D.C.N.D. Ohio 1946), the court on page 505 of its opinion said:

Nor am I impressed with the testimony that the variable sense of smell and taste is more dependable in detecting rot than the microscopic procedure adopted by the Government. Certainly the question of adulteration would rest upon tenuous ground if reliance or conclusion as to the character of the product shipped were bottomed upon conflicting evidence as to the smell or taste of the article sought to be condemned.

It is probably true that there will be a difference of opinion even under the microscopic procedure but for the want of a more reliable test it seems reasonable to accept such results depending, of course, upon the Court's conclusion as to the credibility of the witnesses testifying and giving their opinions upon that subject.

"The language of the Act is very broad, and provides that a food shall be deemed to be adulterated 'if it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for food.' In commenting on this aspect of the Act in *United States v. 449 Cases of Tomato Paste*, supra, the court at pages 572-573 of 212 F. 2d said:

It is of course true, as is often pointed out, e.g., 67 Harv. L. Rev. 632, at 644, 696, that the power granted is very broad, and 'literal application of the statute could lead to unjustified harshness.' But Congress has attempted to meet this difficulty by granting a large measure of discretion to the administrator, originally the Secretary of Agriculture, later the Federal Security Administrator, and now the Secretary of Health, Education and Welfare. In addition to provisions not here immediately pertinent for regulations making certain exemptions or granting certain tolerances, 21 U.S.C. Secs. 345, 346, there is a significant provision in the chapter authorizing penalties, injunctions, and seizures that nothing therein 'shall be construed as requiring the Secretary to report for prosecution, or for the institution of libel or injunction proceedings, minor violations of this chapter whenever he believes that the public interest will be adequately served by a suitable written notice or warning.' 21 U.S.C. Sec. 336. Obviously the Congress considered such administrative control a wiser course than the hedging of power by various theoretical restrictions, the negating of which might be difficult of proof in a particular case. And its wisdom is indicated in this very case, where the product is prepared for and sold in quantity distribution, in cans of 'Net Contents, 10 Lbs. About' of concentrated paste, thus indicating distribution to restaurants and institutions, where customers and inmates cannot easily, if at all, protest the serving of rotten tomato paste, unlike ordinary retail sales, where housewives do have some possible chance of protecting themselves against unwholesome products by buying first-grade articles at top prices.

"It should be noted that the strawberries in question here are packed in 30-lb. tins which would indicate that they, like the tomato paste referred to above, were not for ordinary retail sale.

"The testimony of the expert witnesses has convinced the court that the average mold count in the strawberries was from 60 to 70 percent. All of the Government's experts testified as to the relationship between a high mold count and a high percentage of rotten berries. Even the claimant's witness, Gibson, the grader for the U.S. Department of Agriculture, testified:

Q. What I am getting at, Mr. Gibson, actually, in your grading you pay very little attention to the fact that there is a high mold count in the berries that you inspect, don't you? You are not required to by your service, are you?

A. We are required to. That is one of our requirements before we certify. If we find a high mold count we won't certify it.

Q. What is a high mold count?

A. We have been administratively guided from our Washington department that if the mold count exceeds an average of fifty percent positive fields, with none running higher than sixty, we will certify it as to one of these three grades I have described.

"The able attorneys for the claimant have strongly urged that it is virtually impossible to process strawberries without including some mold which would be reflected by the Howard Mold Count. It is probably true that a scientist with a microscope could detect mold or filth in almost any processed food substance. The question, therefore, is how much mold is required to make strawberries adulterated within the meaning of the Act. The Food and Drug Administration has not established any tolerance for strawberries, and there seems to be no definite provision for administrative setting of a tolerance, as under 21 U.S.C. Sec. 346 for example. Though the Secretary under 21 U.S.C. Sec. 336 is authorized in a proper case to withhold prosecution, yet, when a prosecution is instituted there does not seem to be any authority for a court to waive statutory violations perhaps beyond the principle of de minimis, as suggested in 67 Harv. L. Rev. 632, 645.

"In *United States v. 935 Cases, more or less, of Tomato Puree, supra*, Judge Jones referred to the discretion given the administrator not to report or prosecute minor violations and to make regulations of exemption or tolerance under 21 U.S.C. Secs. 345 and 346, but adds at page 505 of 65 F. Supp.:

No such provision for regulation making exemptions, or for tolerating unavoidable ingredients is provided with respect to Sec. 342(a) (3).

"A mold count of 60 to 70 percent on the average cannot be considered infinitesimal or inconsequential so as to allow the court to apply the rule of de minimis. This is a 'high count' according to all the experts who testified.

"The claimant's loss is considerable. The record discloses a conflict between the scientists of the Food and Drug Administration and the claimant's witness, Gibson, a grader for the U.S. Department of Agriculture, but the court feels compelled under the law and the statute as enacted to accept the testimony of the experts of the Food and Drug Administration. It is probably true that the statute under consideration is too broad and should provide a guide to processors of strawberries and other kindred foods in order to more accurately determine when a food is adulterated. If the statute is too broad and it needs amending in the public interest to guard against the possibility of the destruction of wholesome food by the Government, the remedy is to call the matter to the attention of Congress. *Salamonie Packing Co. v. United State, supra*.

"Therefore, the court concludes that under the facts disclosed by the testimony, the 233 thirty-pound tins of frozen strawberries under seizure herein consisted in whole or in part of some filthy, putrid, or decomposed substance, and should be condemned and destroyed as required by the Act.

CONCLUSIONS OF LAW

1.

"The court has jurisdiction of the subject matter and the parties hereto under 21 U.S.C. Sec. 332.

2.

"The 233 tins of strawberries labeled in part, 'Grove Brand * * * Whole Blakemore Strawberries, Net Weight 30 lbs., Code 5258, Kelly Canning Company, Prairie Grove, Arkansas,' are adulterated within the meaning of the Act and should be condemned and destroyed as provided in the Act.

"An order in accordance herewith is being entered today.

This 28th day of August, 1959."

On 8-28-59, the court entered a decree of condemnation and destruction.

26254. Frozen cranberries. (F.D.C. No. 43831. S. No. 97-532 P.)

QUANTITY: 700 60-lb. bags at Chicago, Ill.

SHIPPED: 10-9-59, from Wisconsin Rapids, Wis., by Gottschalk Cranberry Co.

LIBELED: 11-25-59, N. Dist. Ill.

CHARGE: 402(a)(2)—the article was a raw agricultural commodity and when shipped, it contained a pesticide chemical, namely, aminotriazole, which is unsafe within the meaning of 408 since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on cranberries has been prescribed by regulations.

DISPOSITION: 12-18-59. Default—destruction.

26255. Frozen cranberries. (F.D.C. No. 43875. S. No. 70-407 P.)

QUANTITY: 762 50-lb. bags at Swedesboro, N.J.

SHIPPED: 10-29-59 and 10-30-59, from Carver, Mass., by Eric H. Huikari.

LIBELED: 12-9-59, Dist. N.J.

CHARGE: 402(a)(2)—the article was a raw agricultural commodity and when shipped, it contained a pesticide chemical, namely, aminotriazole, which is unsafe within the meaning of 408 since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on cranberries has been prescribed by regulations.

DISPOSITION: 1-20-60. Default—destruction.

26256. Frozen cranberries. (F.D.C. No. 43815. S. Nos. 97-531 P, 97-536 P.)

QUANTITY: 1,350 60-lb. bags at Chicago, Ill.

SHIPPED: 10-10-59 and 10-11-59, from Wisconsin Rapids, Wis., by Gottschalk Cranberry Co.

LIBELED: 11-20-59, N. Dist. Ill.

CHARGE: 402(a)(2)—the article was a raw agricultural commodity and when shipped, it contained a pesticide chemical, namely, aminotriazole, which is unsafe within the meaning of 408 since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on cranberries has been prescribed by regulations.

DISPOSITION: 12-16-59. Default—destruction.

VEGETABLES AND VEGETABLE PRODUCTS

26257. Celery. (F.D.C. No. 44005. S. No. 73-675 P.)

QUANTITY: 19½ crates, packed 2½, 3, or 4 dozen stalks in each crate, at Jackson, Miss.

SHIPPED: 12-8-59, from Sanford, Fla., by Chase & Co.

LABEL IN PART: "Heart Fresh Celery Chase & Co. Sanford, Florida."

LIBELED: 12-28-59, S. Dist. Miss.

CHARGE: 402(a)(2)—when shipped, the article was a raw agricultural commodity and contained a pesticide chemical, namely, parathion, which was unsafe within the meaning of 408 since the quantity of such pesticide chemical on the article was not within the limits of the tolerance prescribed by regulations.

DISPOSITION: 1-18-60. Default—destruction.

26258. Bibb lettuce. (F.D.C. No. 44020. S. No. 71-444 P.)

QUANTITY: 100 5-lb. baskets at Cincinnati, Ohio.

SHIPPED: 12-26-59 and 12-27-59, from Terre Haute, Ind., by J. W. Davis Co.

LABEL IN PART: (Lid) "Bibb Lettuce * * * J. W. Davis Co. Terre Haute, Ind."

LIBELED: 1-4-60, S. Dist. Ohio.

CHARGE: 402(a)(2)—when shipped, the article was a raw agricultural commodity and contained a pesticide chemical, namely, pentachloro nitrobenzene, which is unsafe within the meaning of 408 since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on lettuce has been prescribed by regulations.

DISPOSITION: 1-4-60. Default—destruction.

26259. Diced red peppers. (F.D.C. No. 43825. S. No. 73-911 P.)

QUANTITY: 132 6-lb. 6-oz cans at Houston, Tex.

SHIPPED: 9-25-59, from Orinda, Calif.

LABEL IN PART: (Can) "Monarch Diced Sweet Red Peppers * * * Consolidated Foods Corporation * * * Chicago."

RESULTS OF INVESTIGATION: Inspection of the Giambanco Wine Vinegar Co., Oakdale, Calif., the packer of the article, showed that insanitary conditions existed in its plant.

LIBELED: 11-24-59, S. Dist. Tex.

CHARGE: 402(a)(3)—contained maggots; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 2-16-60. Default—destruction.

26260. Sweet mixed peppers. (F.D.C. No. 43912. S. No. 85-534 P.)

QUANTITY: 48 cases, 12 1-quart jars each, at Brooklyn, N.Y.

SHIPPED: 10-20-59, from Milford, Del., by Milford Packing Co.

LIBELED: 12-14-59, E. Dist. N.Y.

CHARGE: 402(a)(3)—when shipped, the article contained insects and insect parts; 403(e)—the article failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of contents; and 403(i)—it failed to bear (1) the common or usual name of the food, and (2) the common or usual name of each ingredient.

DISPOSITION: 1-15-60. Default—destruction.

26261. Sauerkraut. (F.D.C. No. 43796. S. No. 68-079 P.)

QUANTITY: 115 cases, 12 2-lb. pkgs. each, at Plymouth, Pa.

SHIPPED: 10-16-59, from North Norwich, N.Y., by Rea-D-Pack Foods, Inc.

LABEL IN PART: (Pkg.) "Willie's Home Style Sauerkraut * * * Rea-D-Pack Foods, N. Norwich, N.Y."

LIBELED: 11-5-59, M. Dist. Pa.

CHARGE: 402(a)(3)—contained insects, insect fragments, fly eggs, and maggots; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 12-11-59. Default—destruction.

26262. Dried pinto beans. (F.D.C. No. 43993. S. No. 78-286 P.)

QUANTITY: 33 25-lb. bags at Port Huron, Mich.

SHIPPED: 10-16-59, from Hagerstown, Md.

LIBELED: 12-14-59, E. Dist. Mich.

CHARGE: 402(a)(3)—contained insects, insect webbing, and insect excreta while held for sale.

DISPOSITION: 2-12-60 and 2-24-60. Default—delivered to a public institution for use as animal feed.

26263. Dried black-eyed peas and dried lima beans. (F.D.C. No. 44182. S. Nos. 75-656/8 P.)

QUANTITY: 2 100-lb. bags of black-eyed peas, and 31 100-lb. bags of lima beans, at Little Rock, Ark.

SHIPPED: 7-16-59, from North Kansas City, Mo.

LIBELED: 1-15-60, E. Dist. Ark.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 2-9-60. Default—delivered to a public institution for use as animal feed.

26264. Dried black-eyed peas, dried lima beans, and dried red beans. (F.D.C. No. 43853. S. Nos. 53-989/91 P.)

QUANTITY: 261 100-lb. bags of black-eyed peas, 26 100-lb. bags of lima beans, and 8 100-lb. bags of red beans, at Johnson, Ark., in possession of Forrest Park Canning Co.

SHIPPED: Between 2-5-59 and 9-23-59, from Turlock, Calif. and North Kansas City, Mo.

LIBELED: 12-2-59, W. Dist. Ark.

CHARGE: 402(a)(3)—contained rodent excreta pellets and rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 1-15-60. Consent—claimed by Forrest Park Canning Co. Segregated; 8,020 lbs. of black-eyed peas, 2,600 lbs. of lima beans, and 800 lbs. of red beans destroyed.

26265. Dried lima beans and dried black-eyed peas. (F.D.C. No. 43916. S. Nos. 69-701/3 P.)

QUANTITY: 229 100-lb. bags of lima beans, and 21 100-lb. bags of black-eyed peas, at Philadelphia, Pa.

SHIPPED: Between 1-1-59, and 3-26-59, from Oxnard, Calif.

LIBELED: 11-13-59, E. Dist. Pa.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 11-23-59. Consent—claimed by E. W. Mills Co., Philadelphia, Pa., cleaned and reconditioned to bring into compliance with the law.

26266. Dried mung beans. (F.D.C. No. 43985. S. Nos. 80-625/6 P.)

QUANTITY: 148 101-lb. bags and 96 110-lb. bags at Detroit, Mich.

SHIPPED: 1-23-57 and 9-30-59, from New York, N.Y.

LIBELED: 12-14-59, E. Dist. Mich.

CHARGE: 402(a)(3)—contained insects and moldy beans while held for sale.

DISPOSITION: 2-15-60. Default—destruction.

26267. Dried mung beans. (F.D.C. No. 44012. S. No. 52-290 P.)

QUANTITY: 151 100-lb. bags at Duluth, Minn.

SHIPPED: Between 11-4-59 and 11-18-59, from Vernon, Tex.

LIBELED: 1-4-60, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent urine while held for sale.

DISPOSITION: 1-19-60. Consent—claimed by Chun King Sales, Inc., Duluth, Minn. Segregated; 19 bags denatured.

26268. Pickled mixed vegetables. (F.D.C. No. 43972. S. No. 87-707 P.)

QUANTITY: 47 cases, 4 1-gal. jars each, at Atlanta, Ga.

SHIPPED: 11-20-59, from Oakdale, Calif.

LABEL IN PART: (Jar) "Sexton * * * Imported Italian & Domestic Pickled Mixed Vegetables * * * Distributed by John Sexton & Co. * * * Chicago, Ill."

RESULTS OF INVESTIGATION: The article was manufactured by the Giambanco Wine Vinegar Co. of Oakdale, Calif.

LIBELED: 12-17-59, N. Dist. Ga.

CHARGE: 402(a)(3)—contained insects and insect fragments when shipped.

DISPOSITION: 1-25-60. Default—destruction.

26269. Pickled mixed vegetables. (F.D.C. No. 43928. S. No. 46-439 P.)

QUANTITY: 97 cases, 4 1-gal. jars each, at Dallas, Tex.

SHIPPED: 9-27-59, from Richmond, Calif.

LABEL IN PART: (Jar) "Sexton" Imported Italian Pickled Mixed Vegetables * * * Distributed by John Sexton & Co."

RESULTS OF INVESTIGATION: Inspection disclosed that the Giambanco Wine Vinegar Co., Oakdale, Calif., was the packer of the article.

LIBELED: 12-21-59, N. Dist. Tex.

CHARGE: 402(a)(3)—contained drosophila flies and fly fragments; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 2-19-60. Default—delivered to a Federal institution for use as animal feed.

26270. Pickled mixed vegetables. (F.D.C. No. 44023. S. No. 78-165 P.)

QUANTITY: 159 1-gal. jars at Detroit, Mich.

SHIPPED: 11-27-59, from Oakdale, Calif., by Giambanco Wine Vinegar Plant.

LABEL IN PART: "Sexton * * * Imported Italian & Domestic Pickled Mixed Vegetables * * * John Sexton & Co."

LIBELED: 1-6-60, E. Dist. Mich.

CHARGE: 402(a)(3)—contained drosophila flies and fly parts when shipped.

DISPOSITION: 2-25-60. Default—destruction.

TOMATOES AND TOMATO PRODUCTS

26271. Canned tomatoes. (F.D.C. No. 44007. S. No. 78-585 P.)

QUANTITY: 646 cases, 24 1-lb. 12-oz. cans each, at Grand Rapids, Mich.

SHIPPED: 11-5-59, from Sweetzers, Ind., by Beyer Canning Co.

LABEL IN PART: (Can) "Spartan Tomatoes * * * Spartan Stores, Inc. Grand Rapids, Mich."

RESULTS OF INVESTIGATION: Examination showed that the article contained fly eggs and maggots.

LIBELED: 12-24-59, W. Dist. Mich.

CHARGE: 402(a)(3)—contained a filthy substance when shipped.

DISPOSITION: 1-18-60. Default—destruction.

26272. Canned tomatoes. (F.D.C. No. 44028. S. No. 97-166 P.)

QUANTITY: 128 cases, 24 1-lb. 3-oz. cans each, at Milwaukee, Wis.

SHIPPED: 11-12-59, from Elwood (Point Isabel), Ind., by Fettig Canning Corporation.

LABEL IN PART: (Can) "A & P * * * Tomatoes * * * The Great Atlantic and Pacific Tea Company, New York, N.Y."

LIBELED: 1-11-60, E. Dist. Wis.

CHARGE: 402(a)(3)—contained drosophila fly eggs and maggots, and decomposed tomato material when shipped.

DISPOSITION: 2-2-60. Default—destruction.

26273. Tomato catsup. (F.D.C. No. 43990. S. No. 86-122 P.)

QUANTITY: 43 cases, 24 14-oz. btls. each, at Erie, Pa.

SHIPPED: 9-25-59, from Fredonia, N.Y., by Red Wing Co., Inc.

LABEL IN PART: (Btl.) "Pride of Erie Brand Tomato Catsup * * * Packed for Erie Wholesale Grocery Co., Erie, Pa."

LIBELED: 12-16-59, W. Dist. Pa.

CHARGE: 402(a)(3)—contained fly eggs and maggots when shipped.

DISPOSITION: 2-11-60. Default—destruction.

26274. Tomato paste. (F.D.C. No. 43312. S. Nos. 23-066/7 P, 53-332 P.)

QUANTITY: 1,500 ctns., 96 6-oz. cans each, at Vineland, N.J.

SHIPPED: 6-18-59, from Buena Park, Calif., by Uddo & Taormina Corp. of California.

LABEL IN PART: (Can) "Progresso Pure Tomato Paste * * * Packed by Uddo & Taormina Company, Buena Park, California."

LIBELED: 7-27-59, Dist. N.J.

CHARGE: 402(a)(3)—contained fly eggs and maggots; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 10-14-59. Consent—destruction.

26275. Tomato puree. (F.D.C. No. 44203. S. No. 96-925 P.)

QUANTITY: 81 ctns., 48 10½-oz. cans each, at Brooklyn, N.Y.

SHIPPED: 12-11-59, from Hanover, Pa., by Hanover Canning Co.

LABEL IN PART: (Can) "Iona Tomato Puree * * * The Great Atlantic & Pacific Tea Co. New York Distributors."

LIBELED: 1-28-60, E. Dist. N.Y.

CHARGE: 402(a)(3)—contained fly eggs, maggots, and decomposed tomato material when shipped.

DISPOSITION: 3-1-60. Default—destruction.

26276. Canned tomato sauce. (F.D.C. No. 43566. S. No. 71-916 P.)

QUANTITY: 750 cases, 72 8-oz. cans each, at East Point, Ga.

SHIPPED: 8-18-59, from McAllen, Tex., by Southern Foods Co.

LABEL IN PART: (Can) "Sunny Acres Spanish Style Tomato Sauce * * *
Packed by Southern Foods Co., McAllen, Texas."

LIBELED: 9-25-59, N. Dist. Ga. Libel amended 10-6-59.

CHARGE: 402(a)(3)—contained insects, insect parts, fly eggs, and maggots when shipped.

DISPOSITION: 11-20-59. Default—destruction.

NUTS AND NUT PRODUCTS

26277. Shelled pecans. (F.D.C. No. 43836. S. No. 69-393 P.)

QUANTITY: 14 30-lb. cases at Minneapolis, Minn.

SHIPPED: 9-21-59, from Valdosta, Ga.

LIBELED: 12-1-59, Dist. Minn.

CHARGE: 402(a)(3)—contained insects and moldy nuts while held for sale.

DISPOSITION: 1-29-60. Default—converted into animal feed.

26278. Shelled pecans, shredded coconut, and coconut cream, pecan, and raisin pies. (F.D.C. No. 42427. S. Nos. 1-754 P, 1-756 P, 67-448/9 M, 67-455 M.)

INFORMATION FILED: 3-31-59, M. Dist. N.C., against the Griffin Baking Co., Inc., Greensboro, N.C., Howard L. Griffin, president, and Edgar L. Fine, production manager of the corporation.

ALLEGED VIOLATIONS: Between 8-18-57 and 8-26-58, the defendants caused to be introduced into interstate commerce at Greensboro, N.C., for delivery to Roanoke and Martinsville, Va., quantities of pies which were adulterated.

On 8-25-58, the defendants caused quantities of shelled pecans and shredded coconut while held for sale after shipment in interstate commerce, to be held in a building accessible to insects and to be exposed to contamination by insects, which acts resulted in the articles being adulterated.

CHARGE: 402(a)(3)—the articles contained insects, insect larvae, insect pupae, and insect parts; and 402(a)(4)—the pies had been prepared and the other articles had been held under insanitary conditions whereby they may have become contaminated with filth.

PLEA: Nolo contendere.

DISPOSITION: 6-2-59. Corporation—\$500 fine; each individual—\$100 fine.

26279. Shelled walnuts. (F.D.C. No. 43936. S. Nos. 70-382/4 P.)

QUANTITY: 195 25-lb. ctns. at Philadelphia, Pa.

SHIPPED: 10-10-59, from San Jose, Calif.

LIBELED: 12-2-59, E. Dist. Pa.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 1-5-60. Consent—claimed by Santa Clara Nut Co., San Jose, Calif. Segregated; 300 lbs. destroyed.

26280. Mixed nuts. (F.D.C. No. 43834. S. No. 88-112 P.)

QUANTITY: 33 cases, 24 1-lb. boxes each, at Cincinnati, Ohio.

SHIPPED: 10-28-59, from New York, N.Y., by Jos. A. Zaloom & Co.

LABEL IN PART: (Box) "Universal Extra Fancy Mixed Nuts * * * Jos. A. Zaloom & Co., Inc., Wm. A. Camp Co., Div., N.Y." and (case) "Home Service Trays 5990 Universal Brand Mixed Nuts."

LIBELED: 11-30-59, S. Dist. Ohio.

CHARGE: 402(a)(3)—contained insects, moldy, rancid, decomposed, shriveled nuts, and empty shells when shipped.

DISPOSITION: 1-6-60. Default—delivered to a public institution for use as animal feed.

26281. Mixed nuts. (F.D.C. No. 43833. S. No. 71-411 P.)

QUANTITY: 38 cases, 24 1-lb. boxes each, at Cincinnati, Ohio.

SHIPPED: 10-13-59, from Chicago, Ill., by Robert L. Berner Co.

LABEL IN PART: (Case) "Spun Gold Brand Mixed Nuts Home Service Tray Packed by Robert L. Berner Co. Chicago."

LIBELED: 11-30-59, S. Dist. Ohio.

CHARGE: 402(a)(3)—contained rancid, decomposed, and shriveled nuts, and empty shells when shipped.

DISPOSITION: 1-6-60. Default—delivered to a public institution for use as animal feed.

26282. Unshelled walnuts. (F.D.C. No. 44015. S. No. 92-491 P.)

QUANTITY: 23 cases, 24 1-lb. boxes each, at Lake Charles, La.

SHIPPED: 12-1-59, from Chico, Calif.

LIBELED: 12-31-59, W. Dist. La.

CHARGE: 402(a)(3)—contained insects and moldy nuts while held for sale.

DISPOSITION: 2-17-60. Default—destruction.

26283. Unshelled chestnuts. (F.D.C. No. 44018. S. No. 83-765 P.)

QUANTITY: 62 67-lb. bags at Denver, Colo.

SHIPPED: 11-6-59, from New York, N.Y.

LIBELED: 1-5-60, Dist. Colo.

CHARGE: 402(a)(3)—contained insects, and moldy, decomposed nuts while held for sale.

DISPOSITION: 2-16-60. Default—delivered to a public institution for use as animal feed.

26284. Unshelled pecans. (F.D.C. No. 44162. S. No. 85-568 P.)

QUANTITY: 11 100-lb. bags at Paterson, N.J.

SHIPPED: 11-24-59 and 12-4-59, from McRae, Ga.

LIBELED: 1-5-60, Dist. N.J.

CHARGE: 402(a)(3)—contained moldy, rancid nuts while held for sale.

DISPOSITION: 2-8-60. Default—destruction.

26285. Unshelled pecans. (F.D.C. No. 44188. S. No. 98-221 P.)

QUANTITY: 47 cases, 24 1-lb. bags each, at Peoria, Ill.

SHIPPED: Prior to 12-2-59, from Mobile, Ala.

LIBELED: 1-21-60, S. Dist. Ill.

CHARGE: 402(a)(3)—contained moldy, decomposed, shriveled nuts, and empty shells while held for sale.

DISPOSITION: 3-7-60. Default—destruction.

26286. Unshelled pecans. (F.D.C. No. 43882. S. No. 50-086 P.)

QUANTITY: 15 cases, 24 1-lb. pkgs. each, at Louisville, Ky.

SHIPPED: 11-7-59, from Albany, Ga.

LIBELED: 12-14-59, W. Dist. Ky.

CHARGE: 402(a)(3)—contained insects, moldy, rancid, decomposed, shriveled nuts, and empty shells while held for sale.

DISPOSITION: 2-15-60. Default—destruction.

26287. Unshelled almonds. (F.D.C. No. 43841. S. Nos. 68-868 P, 68-871 P.)

QUANTITY: 9 cases, 24 1-lb bags each, at Hopkins, Minn.

SHIPPED: In 1958, from Sacramento, Calif.

LIBELED: 12-1-59, Dist. Minn.

CHARGE: 402(a)(3)—contained moldy nuts while held for sale.

DISPOSITION: 1-29-60. Default—converted into animal feed.

26288. Shelled Spanish peanuts. (F.D.C. No. 43304. S. No. 62-627 P.)

QUANTITY: 160 120-lb. bags at Chicago, Ill.

SHIPPED: 6-11-59, from Sylvester, Ga., by Houston Peanut Co.

LIBELED: 7-17-59, N. Dist. Ill.

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 12-1-59. Consent—claimed by G. H. Hammond Co., Chicago, Ill. Reconditioned; 213 lbs. destroyed.

26289. Shelled Spanish peanuts. (F.D.C. No. 43573. S. No. 72-923 P.)

QUANTITY: 192 120-lb. bags at Jersey City, N.J.

SHIPPED: 9-12-59, from Fitzgerald, Ga., by Dixie Peanut Co., Inc.

LABEL IN PART: (Tag) "No. 2 Spanish Peanuts Packed by Dixie Peanut Co. Fitzgerald, Georgia."

LIBELED: 10-5-59, Dist. N.J.

CHARGE: 402(a)(3)—contained insects when shipped.

DISPOSITION: 12-11-59. Consent—claimed by Dixie Peanut Co., Inc. Segregated; 247 lbs. destroyed.

26290. Shelled peanuts. (F.D.C. No. 43533. S. No. 46-534 P.)

QUANTITY: 292 120-lb. bags at North Birmingham, Ala.

SHIPPED: 8-27-59, from Fitzgerald, Ga., by Dixie Peanut Co., Inc.

LIBELED: 9-11-59, N. Dist. Ala.

CHARGE: 402(a)(3)—contained insects and rodent excreta; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 10-12-59 and 1-13-60. Consent—claimed by Dixie Peanut Co., Inc. Segregated; 490 lbs. destroyed.

26291. Pistachio nuts. (F.D.C. No. 43407. S. Nos. 22-638 P, 55-900 P, 82-802 P.)

QUANTITY: 7 cases, 2 25-lb. cans each, at Kansas City, Kans.

SHIPPED: Between 6-5-59 and 7-2-59, from New York, N.Y.

LIBELED: 7-28-59, Dist. Kans.

CHARGE: 402(a) (3)—contained insects while held for sale.

DISPOSITION: 9-15-59. Consent—claimed by American Pistachio Corp., New York, N.Y., for bringing into compliance with the law.

26292. Pecan topping and walnut topping. (F.D.C. No. 43617. S. Nos. 58-018/9 P.)

QUANTITY: 116 cases, 12 jars each, of pecan topping, and 63 cases, 12 jars each, of walnut topping, at Elizabethport, N.J.

SHIPPED: 9-15-59, from Philadelphia, Pa., by Sea Snack Co.

LABEL IN PART: (Jar) "Choice Pecan Halves, [or "Walnut Pieces"] Maple Flavored Invert Sugar Syrup Net Wt. 7 Oz. Sundae Snack Brand * * * Toppings Pecan [or "walnut"] Manufactured by Sea Snack Co., Phila., Pa."

LIBELED: 10-27-59, Dist. N.J.

CHARGE: 403(a)—the statement on the label of the articles when shipped, namely, "Maple Flavored invert sugar syrup" was false and misleading as applied to the articles which were also flavored with fenugreek, an imitation maple flavor; 403(e) (2)—the articles failed to bear a label containing an accurate statement of the quantity of contents (the articles were short weight); and 403(f)—the information required by 403(e) (1) to appear on the label of the articles, namely, the name and address of the manufacturer, packer, or distributor, was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

DISPOSITION: 12-15-59. Default—delivered to charitable institutions.

OLEOMARGARINE

26293. Soy lecithin spread (margarine). (F.D.C. No. 43654. S. Nos. 53-737/40 P.)

QUANTITY: 50 cases, 24 12-oz. ctns. each, and 55 cases, 30 12-oz. pkgs. of 4 cubes each, of salted soy lecithin spread, and 35 cases, 24 12-oz. ctns. each, and 17 cases, 30 12-oz. pkgs. of 4 cubes each, of unsalted soy lecithin, at Los Angeles, Calif.

SHIPPED: 8-6-59, from Riverside, Calif., by Town Food Co., and 8-20-59, from Los Alamitos, Calif. by Sona Food Products Co.

LABEL IN PART: "Town * * * Soy Lecithin Spread Salted [or "Unsalted"]—Margarine"; and "Sona Salted [or "Unsalted"] * * * Soy Lecithin Spread * * * Contains 80% oils of which 71% is unsaturated Margarine."

RESULTS OF INVESTIGATION: Examination showed that the articles resembled oleomargarine and that they were sold in the same State in which they were produced. Examination also showed that the articles contained (Town Brand salted) 0.6 percent lecithin, about 99 percent fat, and less than 1 percent moisture; (Town Brand unsalted) 0.5 percent lecithin, about 99 percent fat, less than 1 percent moisture, and 125 milligrams of sodium per 100 grams;

(Sona Brand salted) 0.1 percent lecithin, about 81 percent fat, and about 15 percent moisture; and (Sona Brand unsalted) 0.1 percent lecithin, 81 percent fat, 18 percent moisture, and an average of 63 milligrams of sodium per 100 grams.

LIBELED: 11-12-59, S. Dist. Calif.

CHARGE: Town Brand salted, 403(a)—when sold and while held for further sale, the name of the article “Soy Lecithin Spread,” was false and misleading since it represented and suggested that the article was principally a spread made with soy lecithin and that it contained a significant proportion of lecithin, whereas the article was margarine containing a small amount of lecithin as permitted as an optional ingredient by the standard of identity for margarine; 403(a)—the label statement “With That Good Down-On-The Farm Crock Flavor” was false and misleading since the article was artificially flavored 403(f)—the article was margarine, a food for which a standard of identity had been established, and the name “Margarine” was not prominently placed on its label or labeling with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; and 403(g)(1)—the article failed to conform to the definition and standard of identity for margarine in that its label did not bear, as required by the definition and standard, the statement “Artificially Colored” or “Artificial Coloring Added” or “With Added Artificial Coloring,” and the label of the article also failed to bear the statements “Artificially Flavored” or “Artificial Flavor Added” or “With Added Artificial Flavor.”

Town Brand unsalted, 403(a)—when sold and while held for further sale, the name of the article, “Soy Lecithin Spread,” was false and misleading since it represented and suggested that the article was principally a spread made with soy lecithin and that it contained a significant proportion of lecithin, whereas the article was margarine containing a small amount of lecithin as permitted as an optional ingredient by the standard of identity for margarine; 403(a)—the label statement “With That Good Down-On-The Farm Crock Flavor” was false and misleading since the article was artificially flavored; 403(f)—the article was margarine, a food for which a standard of identity had been established, and the name “Margarine” was not prominently placed on its label or labeling with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; and 403(j)—the article purported to be and was represented for special dietary use by reason of its low sodium content, and its label failed to bear, as required by the regulations, a statement of the number of milligrams of sodium per 100 grams of the food and a statement of the number of milligrams of sodium in an average serving of the food.

Sona Brand salted, 403(a)—when sold and while held for further sale, the name of the article, “Soy Lecithin Spread,” was false and misleading since it represented and suggested that the article was principally a spread made with soy lecithin and that it contained a significant proportion of lecithin, whereas the article was margarine containing a small amount of lecithin as permitted as an optional ingredient by the standard of identity for margarine; 403(g)(1)—the article failed to conform to the definition and standard of identity for margarine since it contained potassium sorbate, a preservative not permitted by the standard.

Sona Brand unsalted, 403(a)—when sold and while held for further sale, the name of the article, "Soy Lecithin Spread," was false and misleading since it represented and suggested that the article was principally a spread made with soy lecithin and that it contained a significant proportion of lecithin, whereas the article was margarine containing a small amount of lecithin as permitted as an optional ingredient by the standard of identity for margarine; 403(a)—the label statement "16.4 milligrams of Sodium per 100 grams of spread" was false and misleading since the article contained an average of 63 milligrams of sodium per 100 grams; and 403(g) (1)—the article failed to conform to the definition and standard of identity for margarine since it contained potassium sorbate, a preservative not permitted by the standard.

DISPOSITION: 12-9-59. Default—delivered to a charitable institution.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE*

26294. Whey-Fers. (F.D.C. No. 42881. S. Nos. 33-019 P, 33-207 P.)

QUANTITY: 124 btls. at New York, N.Y.

SHIPPED: 12-8-58 and 1-29-59, from South Hackensack, N.J., by Schiff Bio-Food Products, Inc.

LABEL IN PART: "100 1½ gram wafers * * * SCHIFF Natural WHEY-FERS A Nutritious Confection Contains: Whey, Carob, Bone Meal, Yogurt & Natural "D" Schiff Bio Food Products, Inc., So. Hackensack, N.J. * * * WHEY-FERS is a healthful food supplement. Its bone meal portion provides natural minerals; its whey, carob and yogurt portion is rich in lactose, pectin and other carbohydrates noted for their beneficial influence on the intestinal flora. It also contains 6% of biologically high protein as lactalbumin. Half ounce or 10 WHEY-FERS (the recommended daily supply) provides: 400 units natural Vitamin D * * * 750 mg. of natural Calcium * * * 300 mg. of natural Phosphorous * * * WHEY-FERS is also a good source of other minerals natural to carob, whey and bone meal."

RESULTS OF INVESTIGATION: Analysis showed that the article contained less than 10 percent of the declared amount of calcium and less than 20 percent of the declared amount of phosphorous.

LIBELED: 3-19-59, S. Dist. N.Y.

CHARGE: 402(b) (1)—when shipped, the valuable constituents, calcium and phosphorous, had been in whole or in part omitted or abstracted from the article; and 403(a)—the label statements: "Its bone meal portion provides natural minerals * * * Half ounce or 10 WHEY-FERS * * * Provides: * * * 750 mg. of natural calcium * * * 300 mg. of natural Phosphorus * * *" and "Its Whey, carob and yogurt portion is rich in lactose, pectin and other carbohydrates noted for their beneficial influence on the intestinal flora * * *" were false and misleading as applied to the article which contained less than the declared amounts of calcium and phosphorus, and which would not have a beneficial influence on the intestinal flora.

DISPOSITION: 5-15-59. Consent—claimed by Schiff Bio-Food Products, Inc., and brought into compliance with the law by destruction of the ingredients of the bottles and the refilling of the bottles with ingredients conforming to the label specifications.

*See also No. 26204.

26295. Saf-Flower seed oil. (F.D.C. No. 42222. S. No. 41-287 P.)

QUANTITY: 2 cases, 24 8-oz. btls. each, and 9 cases, 12 1-pt. btls. each, at Seattle, Wash.

SHIPPED: 3-31-58, from Los Angeles, Calif., by Kahan & Lessin Co.

LABEL IN PART: (Btl.) "Cholesterol Lowering Factor Hain Saf-Flower Seed Oil Contains 92% Unsaturated Fatty Acid and Natural Tocopherols (Vitamin E) * * * Excellent For Salads and Fine Cooking * * * Distributed by Hain Pure Food Company, Inc., Los Angeles, Calif."

ACCOMPANYING LABELING: Placards entitled "Fight Against Heart Disease" and "Here Now."

LIBELED: 10-13-58, W. Dist. Wash.

CHARGE: 403(a)—the labeling of the article when shipped contained false and misleading representations that the article was saf-flower seed oil containing unsaturated fatty acids and vitamin D, and that the article was necessary and effective as a food for special dietary use in maintenance of low blood cholesterol levels.

The article was alleged to be misbranded also under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices No. 5803.

DISPOSITION: 12-31-58. Default—destruction.

26296. Pollen Gold The Wonder Food and Pollen Gold Food Supplement.
(F.D.C. No. 42277. S. Nos. 41-583/4 P.)

QUANTITY: 72 boxes, consisting of various flavors of Pollen Gold The Wonder Food and 45 boxes of Pollen Gold Food Supplement at Portland, Oreg.

SHIPPED: Between 8-27-58 and 9-26-58, from Wenatchee, Wash., by L. C. Antles, Fruit Tree Pollen Supplies Co.

LABEL IN PART: (Box) "L. C. Antles Pollen Gold The Wonder Food Contents—Honey, Pollen, Dry Skim Milk, Flavoring Net Wt. 8 Oz.", and "L. C. Antles Pollen Gold Food Supplement Contents Approximately Half Pollen, Half Honey * * * Capsules Net Weight 7 Ounces."

ACCOMPANYING LABELING: Leaflets entitled "Pollen Gold—A Wonderful Food Promotion and Clarification"; "Pollen Analysis * * * The Chemical Composition and Nutritional Value of Pollens"; "L. C. Antles Pollen Gold (Pollen Nectar)"; "The Value of Pollen as a Food For Bees The Bee World November, 1940"; "Pollen Analysis The Chemical Composition and Nutritional Value of Pollens Collected by Bees"; "Laucks Testing Laboratories Report Description Date Number"; "L. C. Antles Pollen Gold Pollen Nectar"; and "L. C. Antles Pollen Gold Pollen Nectar * * * L. C. Antles Supply Co."

LIBELED: 11-12-58, Dist. Oreg.

CHARGE: 403(a)—the labeling of the articles, when shipped, contained false and misleading representations that the articles when used as directed or as customary or usual would supply most of the vitamins, minerals, and vitalizing food materials necessary to carry on life; that they would supply miraculous vitamins and minerals; that they would be an important source of vitamins, minerals, amino acids, protein, and fat and would satisfy a "hidden hunger" of the human body; and 403(j)—the articles purported to be and were represented as foods for special dietary use by reason of their use as a means of regulating the intake of protein, fat, carbohydrate, or calories, for the purpose of controlling body weight, and the labels of each article failed to

bear, as required by regulations a statement of the percent by weight of protein, fat, and available carbohydrates in the article, and the number of available calories supplied by a specified quantity of the article.

The libel alleged also that the articles were misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices No. 5805.

DISPOSITION: 1-2-59. Consent—claimed by L. C. Antles and relabeled.

26297. Obepar prenatal supplement. (F.D.C. No. 42241. S. No. 13-623 P.)

QUANTITY: 427 100-tablet btls. at Hammond, Ind.

SHIPPED: 6-2-58, from Chicago, Ill., by Standard Pharmacal Co.

LABEL IN PART: "Tablets * * * Obepar A Phosphorous-Free Prenatal Supplement * * * One tablet contains: Vitamin A 2000 U. Vitamin D 200 U. Vitamin B-1 1.0 mg. Vitamin B-2 1.0 mg. Niacinamide 5.0 mg. Ascorbic Acid 35 mg. D-Calcium Pantothenate 5 mg. Pyridoxine Hcl. 2 mg. Ferrous Sulfate Exsiccated 20 mg. Folic Acid 0.34 mg. Vitamin K 0.5 mg. Vitamin B-12 1 mcg. Calcium Carbonate 400 mg. Magnesium Oxide $\frac{2}{3}$ gr. Dose * * * Mfg. For Tyler Laboratories, Gary, Indiana 2742."

LIBELED: 10-23-58, N. Dist. Ind. Libel amended 1-27-59.

CHARGE: 402(b) (1)—when shipped, the valuable constituent, vitamin B-1, had been in part omitted or abstracted from the article; 403(a)—the label statement "One Tablet Contains * * * Vitamin B-1 . . . 1.0 mg. * * *" was false and misleading; and 403(j)—the article purported to be and was represented as a food for special dietary use by reason of its vitamin and mineral content, and its label failed to bear, as required by regulations, a statement of the proportion of the minimum daily requirements of vitamin A, Vitamin B-1, Vitamin C, Vitamin D, Vitamin B-2, niacinamide, calcium, or iron supplied by a specified quantity of the product when consumed during a period of one day.

DISPOSITION: 12-4-59. Consent—claimed by Colonial Drug Co., Inc., and destroyed.

26298. Conciecaps capsules and Arlvita-Tabs. (F.D.C. No. 41473. S. Nos. 3-491 P, 3-495 P.)

QUANTITY: 345 100-capsule btls. of Conciecaps, and 344 100-tablet btls. of Arlvita-Tabs, at Arlington, Va.

SHIPPED: Between 7-15-52 and 6-27-55, from Philadelphia, Pa.

LIBELED: 4-11-58, E. Dist. Va. Libel amended 10-28-58.

CHARGE: Conciecaps, 402(b) (1)—while held for sale, the valuable constituent, vitamin B₁, had been in part omitted or abstracted from the article; and 403(a)—the label statement "Each Capsule Contains * * * Thiamin HCl (B₁) 3 mg." was false and misleading.

Arlvita-Tabs, 402(b) (1)—while held for sale, the valuable constituents, vitamin A, vitamin B₁, vitamin C, and vitamin D, had been in part omitted or abstracted from the article; and 403(a)—the label statements "Each Tablet Contains: vitamin A * * * 1250 U.S.P. Units * * * vitamin D * * * 250 U.S.P. Units * * * vitamin B₁ * * * 250 U.S.P. Units * * * vitamin C * * * 200 U.S.P. Units" were false and misleading.

The libel alleged also that three other products, namely, Videxcell, Buta-B $\frac{1}{4}$ grain tablets, and Buta-B $\frac{1}{2}$ grain tablets, were adulterated and mis-

branded under the provisions of the law applicable to drugs as reported in notices of judgment on drugs, No. 5788.

DISPOSITION: 11-4-58. Default—destruction.

MISCELLANEOUS FOODS

26299. Various frozen TV dinners. (F.D.C. No. 43127. S. Nos. 58-710/22 P.)

QUANTITY: 3 cases, containing a total of 61 trays of creamed tuna and noodles; 2 cases, containing a total of 60 trays of swiss steak; 4 cases, containing a total of 93 trays of franks and beans; 1 case, containing a total of 18 trays of barbecued beef, mashed potatoes, and baby lima beans; 4 cases, containing a total of 90 trays of macaroni and cheese; 4 cases, containing a total of 90 trays of corned beef hash; 3 cases, containing a total of 56 trays of baked ham, with pineapple sauce, and peas; 4 cases, containing a total of 90 trays of meat loaf, with gravy, mashed potatoes, and mixed vegetables; 2 cases, containing a total of 24 trays of roast beef and peas; 3 cases, containing a total of 55 trays of franks and sauerkraut; 4 cases, containing a total of 78 trays of chicken leg and mashed mixed vegetables; 1 case, containing a total of 30 trays of chicken chow mein and noodles; and 3 cases, containing a total of 55 trays of codfish cake, mashed potatoes, and peas at Denver, Colo.

SHIPPED: 2-10-59, from Hatboro, Pa., by Kwik Kafe Coffee Processors of America, Inc.

RESULTS OF INVESTIGATION: The trays were wrapped in aluminum foil and were unlabeled.

LIBELED: 5-1-59, Dist. Colo.

CHARGE: 403(e)—when shipped, the articles failed to bear labels containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of contents.

DISPOSITION: 6-4-59. Default—delivered to a public institution.

26300. Pizza pie mix. (F.D.C. No. 42854. S. No. 42-668 P.)

QUANTITY: 52 cases, 12 pkgs. each, at Spokane, Wash.

SHIPPED: 1-14-59, from Oakland, Calif., by American Home Foods, Inc.

LABEL IN PART: (Pkg.) “Chef Boy-Ar-Dee Complete Pizza with Cheese and Italian Pizza Sauce * * * 6 oz. Pizza Flour Mix * * * 8 oz. Pizza Sauce * * * 1½ oz. Italian Style Hard Grating Cheese. Made in Chef Boy-Ar-Dee Kitchens of American Home Foods, Inc., Oakland, California.”

LIBELED: 2-25-59, E. Dist. Wash.

CHARGE: 402(a) (3)—contained moldy and decomposed cheese when shipped.

DISPOSITION: 3-16-59. Default—destruction.

INDEX TO NOTICES OF JUDGMENT F.N.J. NOS. 26201-26300

PRODUCTS			
	N.J. No.		N.J. No.
Almonds, unshelled	26287	Beans, black-eyed, dried.	<i>See</i>
Apple pomace	26251	Peas, black-eyed, dried.	
Arlvita-Tabs	26298	cranberry	26215
Bakery products	26205	lima, dried	26215, 26263-26265
Barley, pearled	¹ 26217	mung, dried	26266, 26267
Batter mix	26215	pinto, dried	26262
		red, dried	26264

¹ (26217) Prosecution contested. Contains decision of the court.

	N.J. No.		N.J. No.
Beverages and beverage ma-		Lima beans, dried--	26215, 26263-26265
terials-----	26201-26204	Lobster tails, frozen-----	26242
Bibb lettuce-----	26258	Macaroni -----	26207
Biscuit mix-----	26215	Meat loaf mix-----	26215
Bran muffin mix-----	¹ 26217	Mix(es), batter-----	26215
Buckwheat mix-----	¹ 26217	biscuit -----	26215
Candy. <i>See Confectionery.</i>		bran muffin-----	¹ 26217
Catsup, tomato-----	26273	buckwheat -----	¹ 26217
Caviar -----	26240	dinner roll-----	¹ 26217
Celery -----	26257	Donut -----	26215
Cereals and cereal products-----	¹ 26205-	meat loaf-----	26215
	26221	pancake -----	¹ 26217
Chestnuts, unshelled-----	26283	pizza pie-----	26300
Cocoa beans-----	26222, 26223	prepared-----	26207, 26216
Coconut cream pies-----	26278	waffle -----	26215
shredded -----	26278	Muffin mix, bran-----	¹ 26217
Cod fillets, frozen-----	26237	Mung beans, dried-----	26266, 26267
Coffee -----	26201	Nuts-----	26277-26292
beans, green-----	26202, 26203	mixed-----	26280, 26281
Conciecaps capsules-----	26298	pistachio -----	26291
Confectionery-----	26224	Oats, rolled-----	¹ 26217
Corn, flour-----	26214	Obepar tablets-----	26297
shelled, yellow-----	26229-26231	Oleomargarine -----	26293
Cornmeal -----	26207	Oysters-----	26243-26246
Cranberries-----	26254-26256	Pancake mix-----	¹ 26217
Cranberry beans-----	26215	Peach-apricot bars-----	26205
Currants, dried-----	26249	Peaches, canned-----	26247, 26248
Dates, pitted-----	26250	Peanuts, shelled-----	26290
Dinner(s), frozen, various-----	26299	Spanish-----	26288, 26289
roll mix-----	¹ 26217	Peas, black-eyed, dried----	26263-26265
Donut mix-----	26215	Pecan(s), pies-----	26278
Eggs, frozen-----	26227, 26228	shelled-----	26277, 26278
Farina, enriched-----	¹ 26217	topping -----	26292
Feeds and grains-----	26229-26231	unshelled-----	26284-26286
Flour-----	26206- ¹ 26217	Peppers, diced, red-----	26259
corn -----	26214	mixed, sweet-----	26260
enriched -----	26213	Pies, coconut cream-----	26278
Fruits and vegetables-----	26247-26276	pecan -----	26278
fruit, canned-----	26247, 26248	raisin -----	26278
dried-----	26249-26252	Pinto beans, dried-----	26262
frozen-----	² 26253-26256	Pistachio nuts-----	26291
tomatoes and tomato prod-		Pizza pie mix-----	26300
ucts-----	26271-26276	Pollen Gold, The Wonder Food--	26296
vegetables and vegetable prod-		Food Supplement-----	26296
ucts-----	26257-26276	Raisin(s), pies-----	26278
Haddock fillets, frozen-----	26235	seedless -----	26252
Hake fillets, frozen-----	26237	Raspberry bars-----	26205
Herring-----	26239	Rice-----	26210, 26218, 26219
Honey -----	26225	Saf-Flower seed oil-----	26295
Lettuce, Bibb-----	26258		

¹ (26217) Prosecution contested. Contains decision of the court.² (26253) Seizure contested. Contains findings of fact and conclusions of law.

	N.J. No.		N.J. No.
Salmon, frozen-----	26236	Trout, lake, frozen-----	26232
smoked, canned-----	26239	Vegetables. <i>See</i> Fruits and vege-	
Sauerkraut-----	26261	tables.	
Shellfish. <i>See</i> Fish and shell-		pickled, mixed-----	26268-26270
fish.		Vitamin, mineral, and other prod-	
Shrimp, frozen-----	26241	ucts of special dietary sig-	
Sirup, sorghum-----	26226	nificance-----	26294-26298
Sorghum sirup-----	26226	Waffle mix-----	26215
Soy lecithin spread (marga-		Walnut(s), shelled-----	26279
rine)-----	26293	topping-----	26292
Strawberries, frozen----- ²	26253	unshelled-----	26282
"10" orange drink-----	26204	Whale meat, frozen-----	26238
Tomato(es), canned-----	26271, 26272	Wheat----- ¹	26217, 26220, 26221
catsup-----	26273	Whey-Fers-----	26294
paste-----	26274	Whitefish, dressed-----	26233
puree-----	26275	frozen-----	26232, 26234
sauce, canned-----	26276		

SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS

	N.J. No.		N.J. No.
A & P, Great, Tea Co.:		Burgie Foods Co.:	
canned tomatoes-----	26272	"10" orange drink-----	26204
tomato puree-----	26275	Camp, William A., Co., Div. of	
Ameln Bros., Inc.:		Jos. A. Zaloom & Co., Inc.:	
herring and canned smoked		mixed nuts-----	26280
salmon-----	26239	Canadian Fish Producers, Ltd.:	
American Home Foods, Inc.:		dressed whitefish-----	26233
pizza pie mix-----	26300	frozen whitefish-----	26234
Antles, L. C.:		Canton Provision Co.:	
Pollen Gold, The Wonder Food		oysters-----	26244
and Pollen Gold Food Sup-		Central Sales. <i>See</i> Schneider,	
plement-----	26296	J. M.	
Berks-Lehigh Cooperative Fruit		Chase & Co.:	
Growers, Inc.:		celery-----	26257
apple pomace-----	26251	Cheramie, B. J., Jr.:	
Berner, Robert L., Co.:		oysters-----	26243
mixed nuts-----	26281	Consolidated Foods Corp.:	
Best Maid Products:		diced red peppers-----	26259
sorghum sirup-----	26226	Daigleville Packing Co. <i>See</i>	
Beyer Canning Co.:		Cheramie, B. J., Jr.	
canned tomatoes-----	26271	Davis, J. W., Co.:	
Birch, W. V.:		Bibb lettuce-----	26258
oysters-----	26245	Dixie Peanut Co., Inc.:	
Boston Fish Pier:		shelled peanuts-----	26290
frozen haddock fillets-----	26235	Spanish peanuts-----	26289
Boyer, Robert B., Co.:		Drewer, M. L.:	
canned peaches-----	26247	oysters-----	26246
Bunting, W. C. <i>See</i> Birch, W. V.			

¹ (26217) Prosecution contested. Contains decision of the court.² (26253) Seizure contested. Contains findings of fact and conclusions of law.

	N.J. No.		N.J. No.
Dutton Farmers Elevator Co.:		Huikari, E. H.:	
wheat -----	26220	frozen cranberries-----	26255
Erie Wholesale Grocery Co.:		Huston, Tom, Peanut Co.:	
tomato catsup-----	26273	candy -----	26224
Fettig Canning Corp.:		Japan Export Frozen Marine	
canned tomatoes-----	26272	Products Inspection Corp.:	
Fine, E. L.:		frozen whale meat-----	26238
shelled pecans, shredded coco-		Jensen Grain Co.:	
nut, coconut cream pies,		wheat -----	26221
pecan pies, and raisin pies--	26278	Kahan & Lessin Co.:	
Forrest Park Canning Co.:		Saf-Flower seed oil-----	26295
dried black-eyed peas, dried		Kurr, Samuel & Co.:	
lima beans, and dried red		flour and rice-----	26210
beans -----	26264	Kwik Kafe Coffee Processors of	
Fruit Tree Pollen Supplies Co.:		America, Inc.:	
Pollen Gold, The Wonder Food		various frozen dinners-----	26299
and Pollen Gold Food Sup-		Lehman, D. W.:	
plement -----	26296	sorghum sirup-----	26226
Garrison Elevator Co.:		Lewis, A. M., Inc.:	
shelled yellow corn-----	26229	flour -----	26209
Garrison Elevator Co., Inc.:		McAfee Candy Co., Inc.:	
shelled yellow corn-----	26231	candy -----	26224
Giambanco Wine Vinegar Plant:		Marks, M. J.:	
pickled mixed vegetables-----	26270	Donut mix, waffle mix, biscuit	
Gottschalk Cranberry Co.:		mix, meat loaf mix, batter	
frozen cranberries-----	26254, 26256	mix, cranberry beans, and	
Griffin, H. L.:		dried lima beans-----	26215
shelled pecans, shredded coco-		Merchants Warehouse:	
nut, coconut cream pies,		prepared mixes and flour-----	26216
pecan pies, and raisin pies--	26278	Milford Packing Co.:	
Griffin Baking Co., Inc.:		sweet mixed peppers-----	26260
shelled pecans, shredded coco-		Minnie (boat):	
nut, coconut cream pies,		frozen haddock fillets-----	26235
pecan pies, and raisin pies--	26278	Mittleman Bros., Inc.:	
Hackney, H. T., Co.:		flour -----	26212
Donut mix, waffle mix, biscuit		Moyer Bros.:	
mix, meat loaf mix, batter		canned peaches-----	26248
mix, cranberry beans, and		National Food Sales:	
dried lima beans-----	26215	frozen whale meat-----	26238
Hain Pure Food Co., Inc.:		Northland Fish, Ltd.:	
Saf-Flower seed oil-----	26295	dressed whitefish-----	26233
Hanover Canning Co.:		Norva Coffee Co.:	
tomato puree-----	26275	coffee -----	26201
Heid Bros. Corp.:		Pioneer Hi-Bred Corn Co.:	
flour -----	26211	shelled yellow corn-----	26230
Helena Wholesale, Inc.:		Portland Fish Co.:	
flour, cornmeal, macaroni, and		frozen lobster tails-----	26242
prepared mixes-----	26207	Rea-D-Pack Foods, Inc.:	
Houston Peanut Co.:		sauerkraut -----	26261
shelled Spanish peanuts-----	26288		

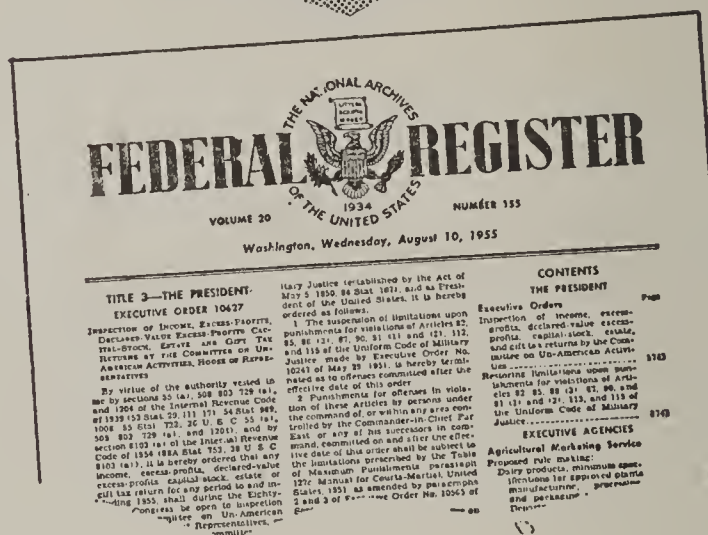
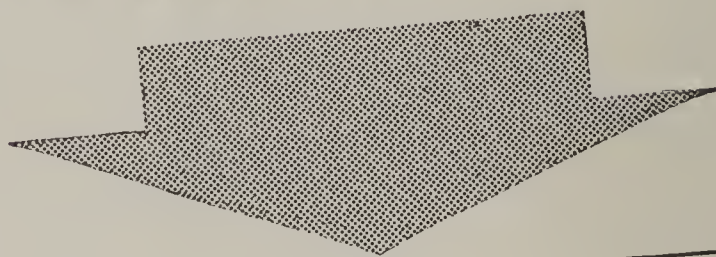
	N.J. No.		N.J. No.
Red Wing Co., Inc.:		Standard Pharmacal Co.:	
tomato catsup-----	26273	Obepar tablets-----	26297
Rogers, C. F.:		Superior Eggs, Inc.:	
honey -----	26225	frozen eggs-----	26228
Schiff Bio-Food Products, Inc.:		Thornley & Pitt:	
Whey-Fers -----	26294	caviar -----	26240
Schneider, J. M.:		Town Food Co.:	
dinner roll mix, pancake mix,		soy lecithin spread (marga-	
enriched farina, buckwheat		rine) -----	26293
mix, bran muffin mix,		Tyler Laboratories:	
pearled barley, rolled whole		Obepar tablets-----	26297
wheat, rolled oats, and		Uddo & Taormina Co.:	
flour ----- ¹	26217	tomato paste-----	26274
Sea Snack Co.:		Uddo & Taormina Corp. of Calif.:	
pecan topping and walnut top-		tomato paste-----	26274
ping -----	26292	United Supply Co.:	
Sexton, John, & Co.:		dried currants-----	26249
pickled mixed vegetables----	26268-	Vita Food Products, Inc.:	
	26270	herring and canned smoked	
Smith, H. A.:		salmon -----	26239
oysters -----	26244	Votsis, S. A.:	
Sona Food Products Co.:		coffee -----	26201
soy lecithin spread (marga-		Weston Biscuit Co.:	
rine) -----	26293	raspberry bars and peach-	
Southern Foods Co.:		apricot bars-----	26205
canned tomato sauce-----	26276	Yukon Mill & Grain Co.:	
Spartan Stores, Inc.:		enriched flour-----	26213
canned tomatoes-----	26271	Zaloom, Jos. A., & Co.:	
		mixed nuts-----	26280

¹ (26217) Prosecution contested. Contains decision of the court.

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U.S. Department of Health, Education, and Welfare

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

26301-26400

FOODS

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CURRENT SERIAL RECORD

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U. S. DEPARTMENT OF AGRICULTURE

The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were adulterated or misbranded within the meaning of the Act when introduced into and while in interstate commerce, or while held for sale after shipment in interstate commerce. These cases involve (1) seizure proceedings in which decrees of condemnation were entered by default or by consent; and (2) criminal proceedings which were terminated following pleas of guilty, nolo contendere, and, in one case, the reversal upon appeal of a verdict of guilty. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the criminal proceedings are against the *firms* or *individuals* charged to be responsible for violations.

Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D.C., July 14, 1960.

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SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN
VIOLATIONS REPORTED IN F.N.J. NOS. 26301-26400

Adulteration, Section 402(a) (2), the article, in seven cases, contained an added poisonous or deleterious substance which was unsafe within the meaning of Section 406; and, in seven cases, the article was a raw agricultural commodity, and contained a pesticide chemical which was unsafe within the meaning of Section 408(a); Section 402(a) (3), the article consisted in part of a filthy or decomposed substance, or it was otherwise unfit for food; Section 402(a) (4), the article had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth; Section 402(a) (5), the article was, in whole or in part, the product of a diseased animal or of an animal which had died otherwise than by slaughter; Section 402(b) (1), a valuable constituent had been in whole or in part omitted or abstracted from the article; Section 402(b) (2), a substance had been substituted wholly or in part for the article; Section 406(a), a poisonous or deleterious substance was added to food when such substance was not required in the production thereof and could have been avoided by good manufacturing practice; and Section 408(a), a poisonous or deleterious pesticide chemical, or a pesticide chemical which is not generally recognized among experts qualified by scientific training and experience to evaluate the safety of pesticide chemicals, as safe for use, had been added to a raw agricultural commodity; and no tolerance or exemption from the requirement of a tolerance for such pesticide chemical in or on the raw agricultural commodity had been prescribed by the Secretary of Health, Education, and Welfare; or such tolerance had been prescribed, and the quantity of the pesticide chemical was in excess of the tolerance.

Misbranding, Section 403(a) the labeling of the article was false and misleading; Section 403(c), the article was an imitation of another food and its label failed to bear, in type of uniform size and prominence, the word "imitation," and immediately thereafter, the name of the food imitated; Section 403(e), the article was in package form, and it failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor, and (2) an accurate statement of the quantity of contents in terms of weight or measure; Section 403(f), a word, statement, or other information required by the Act to appear on the label of the article was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; Section 403(g) (1), the article purported to be and was represented as a food for which a definition and standard of identity had been prescribed by regulation, and it failed to conform to such definition and standard; Section 403(i), the article was not subject to the provisions of Section 403(g) and (1) its label failed to bear the common or usual name of the food; and (2), the article was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient; Section 403(j), the article purported to be and was represented for special dietary uses, and its label failed to bear such information as the Secretary had determined to be, and by regulations prescribed as, necessary in order fully to inform purchasers as to its value for such uses; Section 403(k), the article contained a chemical preservative, and it failed to bear labeling stating that fact.

BEVERAGES AND BEVERAGE MATERIAL

26301. Orange drink and grape drink. (F.D.C. No. 43939. S. Nos. 74-112/3 P.)

QUANTITY: 178 cases, 6 2-qt. btls. each, of orange drink and 325 cases, 6 2-qt. btls. each, of grape drink, at Shreveport, La.

SHIPPED: 6-17-59 and 9-4-59, from Dallas, Tex., by Jus-Made, Inc.

LABEL IN PART: (Btl.) "Jus-Made * * * Orange [or "Grape"] Drink."

RESULTS OF INVESTIGATION: Examination showed that the orange drink contained approximately 9 percent and the grape drink approximately 3 percent of the declared amount of vitamin C.

LIBELED: 12-4-59, W. Dist. La.

CHARGE: 402(b)(1)—while held for sale, the valuable constituent, vitamin C, had been in part omitted or abstracted from the articles; 403(a)—the label statements "30 Milligrams of Vitamin 'C'" were false and misleading; and 403(k)—when shipped, the articles contained a chemical preservative, sodium benzoate, and their labeling failed to state the fact that it was a chemical preservative.

DISPOSITION: 3-21-60. Default—destruction.

26302. Grape drink. (F.D.C. No. 44184. S. No. 76-434 P.)

QUANTITY: 23 cases, 6½-gal. btls. each, at Memphis, Tenn.

SHIPPED: 10-19-59, from Blytheville, Ark., by Arkansas Grocer Co.

LABEL IN PART: (Btl.) "Jus-Made Grape Drink Enriched with Vitamin 'C' Each Pint has been Enriched with 30 Milligrams of Vitamin 'C' * * * Contents; Water, Sugar, Fruit Juice, Citric Acid, Essential Oils, U.S. Color, Less than 1-10 of 1% Sodium Benzoate. * * * Jus-Made Inc.—3221 Pennsylvania Ave., Dallas, Texas."

RESULTS OF INVESTIGATION: Examination showed that the article contained approximately 14.4 percent of the declared amount of 30 milligrams of vitamin C per pint.

LIBELED: 1-15-60, W. Dist. Tenn.

CHARGE: 402(b)(1)—when shipped, the valuable constituent, vitamin C, had been in whole or in part omitted or abstracted from the article; 403(a)—the label statement "Each Pint has been Enriched with 30 Milligrams of Vitamin 'C'" was false and misleading; and 403(k)—the article contained a chemical preservative, sodium benzoate, and its labeling failed to state the fact that the article contained a chemical preservative.

DISPOSITION: 3-2-60. Default—destruction.

CEREALS AND CEREAL PRODUCTS**BAKERY PRODUCT**

26303. Ryola Crisp Rye. (F.D.C. No. 42436. S. Nos. 20-494 P, 27-404 P.)

INFORMATION FILED: 3-16-59, Dist. Minn., against Ryola Co., a corporation, Minneapolis, Minn., and Guy M. Fredeen, president of the corporation.

SHIPPED: Between 8-27-58 and 10-24-58, from Minnesota to Kansas and South Dakota.

LABEL IN PART: (Pkg.) "RYOLA Scandinavian Style CRISP RYE Family Size Net Weight 11 Ounces RYOLA COMPANY Minneapolis Minn"

CHARGE: 402(a)(3)—contained insect fragments and rodent hair fragments; and 402(a)(4)—prepared and packed under insanitary conditions.

PLEA: Guilty by the company to count 1 involving the shipment to Kansas; and by the individual to count 2 involving the shipment to South Dakota.

DISPOSITION: 12-14-59. Each defendant fined \$200.

CORNMEAL

26304. **Cornmeal and flour.** (F.D.C. No. 44033. S. Nos. 75-664/6 P.)

QUANTITY: 69 25-lb. bags of cornmeal and 49 50-lb. bags of flour at Texarkana, Ark., in possession of Jopling-Eason Wholesale Grocer Co.

SHIPPED: Between 10-9-59 and 12-3-59, from Crete, Nebr., and Arkansas City, Kans.

LIBELED: 1-13-60, W. Dist. Ark.

CHARGE: 402(a)(3)—contained rodent excreta pellets and rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 2-25-60. Default—delivered to a charitable institution for use as animal feed.

FLOUR*

26305. **Pastry flour.** (F.D.C. No. 43971. S. No. 90-451 P.)

QUANTITY: 498 100-lb. bags at Fall River, Mass.

SHIPPED: 10-24-59, from Island City, Oreg.

LIBELED: 12-17-59, Dist. Mass.

CHARGE: 402(a)(3)—contained rodent urine and rodent excreta pellets while held for sale.

DISPOSITION: 1-15-60. Consent—claimed by American Grocers Supply Co., Fall River, Mass. Segregated; 440 100-lb bags denatured.

26306. **Flour.** (F.D.C. No. 44066. S. Nos. 96-182/3 P.)

QUANTITY: 22 bales, 12 4-lb. bags each, at Eau Claire, Wis.

SHIPPED: 12-16-59, from Stockton, Minn., by Stockton Roller Mill Co.

LABEL IN PART: (Bag) "Stockton Brand Compound Self-Rising Buckwheat Flour * * * Manufactured and Put up by Stockton Roller Mill Co. Stockton, Minn." or "Stockton Brand Self Rising Wheat Cake Flour * * * Manufactured and Packed by Stockton Roller Mill Co. Stockton, Minn."

LIBELED: 2-15-60, W. Dist. Wis.

CHARGE: 402(a)(3)—contained insects, insect fragments, and rodent hair fragments; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 3-18-60. Default—delivered to a public institution for use as animal feed.

26307. **Flour.** (F.D.C. No. 43089. S. Nos. 28-942/3 P.)

INFORMATION FILED: 6-16-59, N. Dist. Miss., against Leroy P. McCarty, a partner in the partnership of L. P. McCarty & Son, Tupelo, Miss.

*See also Nos. 26304, 26323.

ALLEGED VIOLATION: Between 8-20-58 and 9-30-58, the defendant caused a quantity of flour, while held for sale after shipment in interstate commerce, to be held in a building that was accessible to insects, rodents, and birds and to be exposed to contamination by insects, rodents, and birds which act resulted in the article being adulterated.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 1-11-60. \$100 fine.

26308. Flour. (F.D.C. No. 43625. S. No. 73-005 P.)

QUANTITY: 229 100-lb bags at Elizabeth, N.J.

SHIPPED: 8-20-59, from Buffalo, N.Y.

LIBELED: 11-6-59, Dist. N.J.

CHARGE: 402(a)(3)—contained insects and insect parts while held for sale.

DISPOSITION: 1-20-60. Default—destruction.

26309. Flour. (F.D.C. No. 44047. S. No. 75-672 P.)

QUANTITY: 162 25-lb. bags at Fort Smith, Ark., in possession of Griffin Grocery Co.

SHIPPED: 11-24-59, from Winfield, Kans.

LIBELED: 1-28-60, W. Dist. Ark.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 3-9-60. Default—delivered to a charitable institution for use as animal feed.

26310. Flour. (F.D.C. No. 44206. S. No. 96-917 P.)

QUANTITY: 1,092 bales, 5 10-lb. bags each, at Jersey City, N.J.

SHIPPED: On or about 1-5-60, from Lemoyne, Pa.

LIBELED: 1-27-60, Dist. N.J.

CHARGE: 402(a)(3)—contained rodent urine while held for sale.

DISPOSITION: 2-9-60. Consent—claimed by Pennsylvania Railroad Co., New York, N.Y. Segregated; 395 bales denatured.

26311. Enriched flour. (F.D.C. No. 43676. S. No. 40-239 P.)

INFORMATION FILED: 11-4-59, Dist. Utah, against Central Milling Co., Inc., Logan, Utah.

SHIPPED: 11-10-58, from Utah to California.

LABEL IN PART: (Bag) "5 lbs. Net Bleached-Enriched * * * Market Brand Flour Packed for Standard Wholesale Grocery Co. Oakland, California."

CHARGE: 403(a)—the label statements "8 Ozs. of Enriched Flour Supply Not Less Than the Following Proportions of the Minimum Daily Requirements of: Thiamine, 100%; Riboflavin, 50%; Niacin, 80%; and Iron, 65%. Thiamine, Riboflavin and Niacin are B Vitamins" were false and misleading since 8 ounces of the article contained less than the above stated proportions of the minimum daily requirement for thiamin, riboflavin, niacin, and iron; and 403(g)(1)—the article failed to conform to the definition and standard of identity for enriched flour since it contained per pound less than 2.0 milli-

grams of thiamin, less than 1.2 milligrams of riboflavin, less than 16.0 milligrams of niacin, and less than 13.0 milligrams of iron.

PLEA: Guilty.

DISPOSITION: 12-7-59. \$600 fine.

MACARONI AND NOODLE PRODUCTS

26312. Elbow macaroni. (F.D.C. No. 44245. S. No. 90-335 P.)

QUANTITY: 71 20-lb. boxes at Pownal, Maine.

SHIPPED: 10-26-59, from Fall River, Mass., by Luso-American Macaroni Mfg. Co., Inc.

LABEL IN PART: "Elbow, Mac. * * * No. 1 Semolina."

LIBELED: 2-15-60, Dist. Maine.

CHARGE: 402(a)(3)—contained insect larvae when shipped.

DISPOSITION: 3-14-60. Default—delivered to a public institution for use as animal feed.

26313. Egg noodles and cake mixes. (F.D.C. No. 44196. S. Nos. 3-759/61 P, 3-767/70 P.)

QUANTITY: 21 cases, 4 doz. 8-oz. pkgs. each, and 5 cases, 24 1-lb. boxes each, of egg noodles; and 5 cases, 12 10½-oz. pkgs. each, 8 cases, 12 18-oz. pkgs. each, and 5 cases, 12 10-oz. pkgs. each, of cake mixes, at Baltimore, Md.

SHIPPED: 11-6-59, from Long Island City, N.Y., and Minneapolis, Minn.

LIBELED: 1-21-60, Dist. Md.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 3-11-60. Default—destruction.

26314. Canned spaghetti in tomato sauce. (F.D.C. No. 43986. S. Nos. 49-075 P, 61-995 P.)

QUANTITY: 49 cases, 24 1-lb. 8-oz. cans each, and 14 cases, 36 19½-oz. cans each, at Honolulu, Hawaii.

SHIPPED: 10-19-59, from Sacramento, Calif., by Campbell Soup Co.

LABEL IN PART: (Can) "Franco-American Spaghetti in Tomato Sauce with Cheese * * * Made by Campbell Soup Company * * * Camden, N.J."

LIBELED: 12-10-59, Dist. Hawaii.

CHARGE: 402(a)(3)—contained insects and insect parts; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 1-6-60. Default—delivered to a public institution for use as animal feed.

MISCELLANEOUS CEREALS*

26315. Rice. (F.D.C. No. 44140. S. No. 90-636 P.)

QUANTITY: 24 25-lb. bags at Hartford, Conn.

SHIPPED: 5-12-58 and 3-9-59, from Edgewater, N.J.

LIBELED: 12-29-59, Dist. Conn.

CHARGE: 402(a)(3)—contained insects and rodent urine while held for sale.

DISPOSITION: 3-23-60. Default—destruction.

*See also No. 26313.

26316. Rice and unpopped popcorn. (F.D.C. No. 44139. S. Nos. 90-632/3 P.)
QUANTITY: 41 25-lb. bags of rice and 18 100-lb. bags of popcorn at East Hartford, Conn.

SHIPPED: 12-29-58 and 3-9-59, from Bremen, Ind., and Edgewater, N.J.

LIBELED: 12-30-59, Dist. Conn.

CHARGE: 402(a)(3)—contained insects and rodent urine while held for sale.

DISPOSITION: 3-23-60. Default—destruction.

26317. Rice, poppyseed, dried red kidney beans, dried black-eyed peas, and dried navy beans. (F.D.C. No. 43638. S. Nos. 79-410/4 P.)

QUANTITY: 29 25-lb. bags of rice, 4 110-lb. bags of poppyseed, 6 100-lb. bags of dried kidney beans, 6 100-lb. bags of dried black-eyed peas, and 7 100-lb. bags of dried navy beans, at Bedford Heights, Ohio, in possession of Seaway Wholesale Grocery Co.

SHIPPED: Between 11-14-58 and 8-4-59, from Stuttgart, Ark., Martisco and New York, N.Y., Kansas City, Mo., and Saginaw, Mich.

LIBELED: 11-10-59, N. Dist. Ohio.

CHARGE: 402(a)(3)—all lots except navy beans contained insects, kidney beans contained insect excreta, insect webbing and insect larvae, navy beans contained insect excreta and insect fragments; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 1-18-60. Default—destruction.

26318. Wheat. (F.D.C. No. 44070. S. No. 29-801 R.)

QUANTITY: 120,000 lbs. at Minneapolis, Minn.

SHIPPED: 1-29-60, from Superior, Wis., by Atwood-Larson Co.

LIBELED: 2-23-60, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 3-2-60. Consent—claimed by Farmers Elevator Co., Upham, N. Dak. Segregated; 9,120 lbs. denatured for use as animal feed.

26319. Wheat. (F.D.C. No. 44034. S. No. 83-397 P.)

QUANTITY: 105,600 lbs. at Kansas City, Kans.

SHIPPED: 12-28-59, from Friend, Nebr., by Friend Grain Co., Inc.

LIBELED: 1-15-60, Dist. Kans.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 2-27-60. Consent—claimed by B. C. Christopher & Co., Kansas City, Mo. Segregated; 7,000 lbs. denatured.

26320. Wheat. (F.D.C. No. 44001. S. No. 56-250 P.)

QUANTITY: 109,200 lbs. at Kansas City, Kans.

SHIPPED: 12-9-59, from Roseland, Nebr., by Cooperative Grain & Supply Co.

LIBELED: 12-22-59, Dist. Kans.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 1-8-60. Consent—claimed by Co-op Grain and Supply Co., Roseland, Nebr. Segregated; 8,900 lbs. denatured.

26321. Wheat. (F.D.C. No. 43850. S. No. 83-284 P.)

QUANTITY: 46,740 lbs. at Kansas City, Kans.

SHIPPED: 11-23-59, from Williamsburg, Kans., by Lebo Grain Co., to Kansas City, Mo., and from there to Kansas City, Kans.

LIBELED: 12-7-59, Dist. Kans.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 12-16-59. Consent—claimed by Lebo Grain Co., Inc. Segregated; 4,090 lbs. found unfit.

26322. Wheat. (F.D.C. No. 43821. S. No. 20-612 P.)

QUANTITY: 120,000 lbs. at Kansas City, Kans.

SHIPPED: 11-16-59, from Western, Nebr., by Hart Grain Co.

LIBELED: 11-30-59, Dist. Kans.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 12-30-59 and 1-14-60. Consent—claimed by Hart Grain Co., Kansas City, Mo. Segregated; 6,766 lbs. denatured.

26323. Bran and flour. (F.D.C. No. 44216. S. Nos. 90-462/4 P.)

QUANTITY: 5 25-lb. bags of bran and 29 100-lb. bags of flour at New Bedford, Mass., in possession of Luzo Grocery Co., Inc.

SHIPPED: Between 10-22-59 and 12-1-59, from Minneapolis, Minn.

LIBELED: 1-29-60, Dist. Mass.

CHARGE: 402(a)(3)—contained rodent urine and rodent excreta pellets; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 3-14-60. Default—destruction.

26324. Whole wheat mix. (F.D.C. No. 44267. S. No. 90-334 P.)

QUANTITY: 20 100-lb. bags at Portland, Maine.

SHIPPED: 1-4-60, from Milford, Conn., by Rose Mill, Inc.

LABEL IN PART: "Rose Mill * * * 100% Stone Ground Whole Wheat Mix
Rose Mill Incorporated, Milford, Conn."

LIBELED: 3-7-60, Dist. Maine.

CHARGE: 402(a)(3)—contained rodent hair fragments; 402(a)(4)—prepared and packed under insanitary conditions; and 403(i)(2)—the article was fabricated from two or more ingredients and its label failed to bear the common or usual name of each such ingredient.

DISPOSITION: 3-22-60. Default—delivered to a public institution for use as animal feed.

CHOCOLATE, CHOCOLATE PRODUCTS, AND CONFECTIONERY

CHOCOLATE AND COCOA

26325. Powdered chocolate and cocoa. (F.D.C. No. 44200. S. No. 77-405 P.)

QUANTITY: 49 cases, 12 1-lb. cans each, at Seattle, Wash.

SHIPPED: 11-19-59, from San Francisco, Calif., by D. Ghirardelli Co.

LABEL IN PART: (Can) "Ghirardelli Sweet Ground Chocolate and Cocoa
* * * Manufactured by D. Ghirardelli Co. San Francisco."

LIBELED: 1-22-60, W. Dist, Wash.

CHARGE: 402(a)(3)—contained insects and insects fragments; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 4-4-60. Default—destruction.

26326. Chocolate fudge topping. (F.D.C. No. 43308. S. No. 65-839 P.)

QUANTITY: 4 cases, 24 tubes each, and 18 cases, 6 tubes each, at Olean, N.Y.

SHIPPED: 5-26-59, from Lawrence, Mass., by Lincoln Foods, Inc.

LABEL IN PART: (Tube) "Valley Crest Farms Chocolate Fudge Ice Cream Topping * * * Fortified with Iron and Vitamin "D" * * * 4 Tsp. (48 grams) equals the daily minimum requirements of Vitamin D and Iron. Contents 8 Oz. Net Weight Valley Crest Farms Co., Lawrence, Mass."

LIBELED: 7-20-59, W. Dist. N.Y.

CHARGE: 402(b)(1)—the valuable constituent, iron, had been in part omitted or abstracted from the article when shipped; and 403(a)—the label statement "4 Tsp. (48 grams) equal the daily minimum requirements of * * * iron" was false and misleading as applied to the article which contained .83 milligrams per 48 grams, or 8.89 percent of the minimum daily requirement of iron.

DISPOSITION: 10-14-59. Default—destruction.

26327. Cocoa expeller cake. (F.D.C. No. 43968. S. No. 85-468 P.)

QUANTITY: 685 100-lb. bags at Brooklyn, N.Y.

SHIPPED: Prior to 5-27-57, from Brazil.

LIBELED: 12-23-59, E. Dist. N.Y.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 3-29-60. Consent—claimed by U.S. Cocoa Corp., Camden, N.J., and denatured.

CONFECTIONERY

26328. Candy. (F.D.C. No. 43230. S. Nos. 5-799 P, 27-615 P.)

INFORMATION FILED: 8-31-59, E. Dist. Pa., against H. Segal & Co., a partnership, Philadelphia, Pa., and Marvin H. Segal, partner.

SHIPPED: 3-31-59 and 4-2-59, from Pennsylvania to Minnesota and Maryland.

LABEL IN PART: (Ctn.) "Segal Fruits and Nuts Chocolate Covered Louis Segal Candy Co., Inc. Philadelphia, Pa. One Pound Net"; and "H. Segal's "Far Ginz Ach" Marmalade 14 oz. Net Mfg. by H. Segal & Co., Phila., Pa."

CHARGE: 402(a)(3)—contained insect fragments and rodent hairs; and 402(a)(4)—prepared under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 1-19-60. Each defendant fined \$1,000 and placed on probation for 2 years.

26329. Candy bars. (F.D.C. No. 44060. S. No. 71-569 P.)

QUANTITY: 26 cases, each containing 24 pkgs. of 6 1-oz. individually wrapped bars each, at Columbus, Ohio.

SHIPPED: 10-15-59 and 1-5-60, from Kansas City, Mo., by Sifers Valomilk Confection Co.

LABEL IN PART: (Pkg.) "Family Party Pack * * * Sifers Valomilk Confection Co. Kansas City 8, Mo."; (bar) "Sifers Valomilk Swiss Style."

LIBELED: 2-11-60, S. Dist. Ohio.

CHARGE: 402(a) (3)—contained insect fragments; and 402(a) (4)—prepared and packed under insanitary conditions.

DISPOSITION: 3-28-60. Default—destruction.

DAIRY PRODUCTS

BUTTER

26330. Butter. (F.D.C. No. 43083. S. Nos. 13-829 P, 25-456 P.)

INFORMATION FILED: 6-22-59, Dist. Minn., against David J. M. Park, t/a David Park Co., Bemidji, Minn.

SHIPPED: 9-17-58 and 10-13-58, from Minnesota to Illinois.

CHARGE: 402(a) (3)—contained fly fragments, insects, insect fragments, rodent hairs, and manure, and filthy cream had been used in the preparation of the article.

PLEA: Guilty.

DISPOSITION: 6-22-59. \$150 fine.

26331. Butter. (F.D.C. No. 43497. S. Nos. 72-745 P, 72-747 P.)

QUANTITY: 192 64-lb. boxes at Jersey City, N.J.

SHIPPED: 8-24-59, from Carrington, N. Dak., by North American Creameries.

LIBELED: 9-8-59, Dist. N.J.

CHARGE: 402(b) (2)—when shipped, a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: 9-17-59. Consent—claimed by North American Creamery of Carrington, Inc., and reworked.

26332. Butter. (F.D.C. No. 44050. S. No. 48-575 P.)

QUANTITY: 23 cases, 40 1-lb. pkgs. of ¼-lb. prints each, at Honolulu, Hawaii.

SHIPPED: 1-12-60, from San Francisco, Calif., by Tomales Bay Creamery.

LABEL IN PART: (Quarters) "Bay Creamery Butter Tomales Bay Creamery."

LIBELED: 1-27-60, Dist. Hawaii.

CHARGE: 402(a) (2)—when shipped, the article contained added poisonous and deleterious substances, namely, DDT and TDE, which were unsafe within the meaning of 406 since these were substances not required in the production of the article.

DISPOSITION: 3-4-60. Default—destruction.

EGGS

26333. Frozen eggs. (F.D.C. No. 42114. S. Nos. 9-286/7 P.)

QUANTITY: 770 30-lb. cans at Pittsburgh, Pa.

SHIPPED: 6-2-58 and 8-26-58, from Nashville, Tenn., by Modern Egg Products.

LABEL IN PART: "Frozen Whole Eggs Packed for L. Rudolf & Co. * * * New York, N.Y. * * * Modern Egg Produce Nashville, Tenn." and "Frozen Whole Egg—Ozen Whole Egg."

LIBELED: 9-12-58, W. Dist. Pa.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 10-26-59. Weinberg Bros. & Co., Chicago, Ill., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the article was ordered released under bond for the purpose of denaturing all of the cans of the article so as to preclude its use for human food purposes and to permit its use only for industrial purposes except that those cans which did not contain any acetic, formic or succinic acid and did not have a direct microscopic bacteria count in excess of 5,000,000 per gram of egg may be used for human food purposes and need not be denatured. The claimant failed to avail itself of the opportunity to repossess the article as provided by the decree and on 12-16-59, the court ordered that the article be destroyed.

26334. Frozen eggs. (F.D.C. No. 43954. S. No. 85-602 P.)

QUANTITY: 500 30-lb. cans at Brooklyn, N.Y.

SHIPPED: 8-24-59, from Gainesville, Ga., by Best Ice & Locker Co., Inc.

LABEL IN PART: (Cover) "Whole Eggs * * * Packed by North Georgia Coop Dahlonega, Ga."

LIBELED: 12-23-59, E. Dist. N.Y.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 1-27-60. Consent—claimed by Helfer-King, Inc., New York, N.Y. Segregated; 43 cans denatured.

26335. Incubator reject eggs. (F.D.C. No. 42159. S. No. 15-098 P.)

QUANTITY: 500 cases, 30 doz. each, at Nashville, Tenn.

SHIPPED: 7-25-58, from Center, Tex., by A & R Produce Co.

LIBELED: 7-25-58, M. Dist. Tenn.

CHARGE: 402(a)(3)—contained decomposed eggs and was otherwise unfit for food when shipped.

DISPOSITION: 12-10-58. Consent—destruction.

26336. Incubator reject eggs. (F.D.C. No. 41866. S. No. 15-089 P.)

QUANTITY: 1 truckload at Spring Hill, Tenn.

SHIPPED: 6-14-58, from Jasper, Ala., by Technical Egg Products, Inc.

LIBELED: 6-14-58, M. Dist. Tenn.

CHARGE: 402(a)(3)—contained decomposed eggs and was otherwise unfit for food when shipped.

DISPOSITION: 9-12-58. Consent—claimed by Technical Egg Products, Inc., Nashville, Tenn., and ordered to be denatured. The eggs were subsequently destroyed.

FEEDS AND GRAINS

26337. Apple pomace silage. (F.D.C. No. 44235. S. No. 84-322 P.)

QUANTITY: 150 tons at Kearneysville, W. Va.

SHIPPED: 9-8-59 and 12-11-59, from Winchester, Va., by Shenandoah Valley Apple Cider & Vinegar Co.

LIBELED: 2-13-60, N. Dist. W. Va.

CHARGE: 402(a)(2)—when shipped, the article contained an added poisonous and deleterious substance, DDT, which is unsafe within the meaning of 408 since the quantity of DDT contained on the article was greater than the tolerance fixed by the Secretary for such pesticide chemical on apples.

DISPOSITION: 3-31-60. Consent—claimed by Lyle C. Tabb, Kearneysville, W. Va., and destroyed by spreading and plowing under on the owner's land.

26338. Cottonseed meal. (F.D.C. No. 44051. S. No. 56-144 P.)

QUANTITY: 400 100-lb. bags at Lancaster, Kans.

SHIPPED: 12-23-59, from Metz, Mo., by Wendell Klenn.

LABEL IN PART: (Tag) "SCO-CO 41% Protein Cottonseed Meal Prime Quality * * * Southern Cotton Oil Division Wesson Oil & Snowdrift Co., Inc., Memphis, Tennessee."

RESULTS OF INVESTIGATION: Examination showed that the article contained approximately 37.6 percent protein.

LIBELED: 2-4-60, Dist. Kans.

CHARGE: 402(b)(2)—when shipped, cottonseed meal of less protein content had been substituted in whole or in part for the article; and 403(a)—the label statement "41% Protein" was false and misleading.

DISPOSITION: 2-25-60. Consent—claimed by Wesson Oil & Snowdrift Co., Inc., New Orleans, La., and relabeled.

FISH AND SHELLFISH

26339. Frozen whitefish. (F.D.C. No. 43917. S. Nos. 85-238/9 P.)

QUANTITY: 82 60-lb. boxes at New York, N.Y.

SHIPPED: 9-28-59, from Edmonton, Canada.

LIBELED: 11-27-59, S. Dist. N.Y.

CHARGE: 402(a)(3)—contained decomposed fish while held for sale.

DISPOSITION: 12-16-59. Default—destruction.

26340. Frozen whitefish. (F.D.C. No. 44109. S. Nos. 9-402/3 P.)

QUANTITY: 50 75-lb. ctns. and 7,608 lbs. in 69 boxes at Buffalo, N.Y.

SHIPPED: 3-15-60, from Detroit, Mich., by J. Kozloff Fish Co.

LABEL IN PART: (Ctn.) "Product of Canada God's Lake, Man. Northern Lakes Fisheries Co., Ltd., Winnipeg, Man. Dr. Whitefish Medium * * * 5462 * * * Cert. #9209." and (box) "Product of Canada * * * Dressed Medium Whites * * * Clark Fisheries, Meadow Lake, Sask. * * * 2509 Lot #5463."

LIBELED: 3-30-60, W. Dist. N.Y.

CHARGE: 402(a)(3)—contained parasitic cysts when shipped.

DISPOSITION: 4-4-60. Consent—claimed by J. Kozloff Fish Co., and exported to the original shipper in Canada.

26341. Frozen whitefish. (F.D.C. No. 43298. S. Nos. 51-112 P, 51-114 P.)

QUANTITY: 134 75-lb. boxes at Chicago, Ill.

SHIPPED: 10-15-58 and 12-8-58, from Winnipeg, Canada, by Booth Fisheries Canadian Co., Ltd.

LABEL IN PART: "Product of Canada Booth Fisheries Winnipeg Canada Med. Whitefish, South Indian Lake, Manitoba" and "Product of Canada, South Indian Lake, Medium Dressed Whitefish."

LIBELED: 7-15-59, N. Dist. Ill.

CHARGE: 402(a) (3)—contained parasitic cysts when shipped.

DISPOSITION: 3-24-60. Default—destruction.

26342. Frozen whitefish. (F.D.C. No. 43886. S. Nos. 63-088/9 P.)

QUANTITY: 10 60-lb. boxes at Chicago, Ill.

SHIPPED: 10-17-59, from Winnipeg, Canada, by Canadian Fish Producers, Ltd.

LABEL IN PART: "DSD Large Whitefish Black Bear Island Lake, Sask. Shipper: Cooperative Fisheries Limited Prince Albert, Sask. * * * 4463 Product of Canada" and "Trout Lake, Sask. Shipper: Cooperative Fisheries Limited Prince Albert, Sask. DSD Large Whitefish 4463."

LIBELED: 11-12-59, N. Dist. Ill.

CHARGE: 402(a) (3)—contained parasitic cysts when shipped.

DISPOSITION: 12-9-59. Default—destruction.

26343. Oysters. (F.D.C. No. 43073. S. No. 5-352 P.)

INFORMATION FILED: 4-20-59, Dist. Md., against Charles W. Howeth, t/a Chas. W. Howeth & Bro., Crisfield, Md.

SHIPPED: 10-29-58, from Maryland to Pennsylvania.

LABEL IN PART: (Can) "CHAS. W. HOWETH & BRO. 1 Gal Net OYSTERS CRISFIELD, MD. MD. 193."

CHARGE: 403(g) (1)—the article failed to conform to the definition and standard of identity for oysters since, in the preparation of the article, the containers for the oysters upon being shucked were being filled with water or salt water in excess of $\frac{1}{4}$ of the volume of oysters and liquid when emptied, and the total time that such oysters were in contact with water or salt water containing less than 0.75 percent salt after leaving the shucker was more than 30 minutes.

PLEA: Guilty.

DISPOSITION: 3-24-60. Fine of \$625, plus costs.

FRUITS AND VEGETABLES

CANNED FRUIT

26344. Cranberry sauce. (F.D.C. No. 43877. S. No. 88-119 P.)

QUANTITY: 68 cases, 24 1-lb. cans each, at Columbus, Ohio.

SHIPPED: 11-12-59, from Bridgeton, N.J., by Morris April Bros.

LABEL IN PART: (Case) "Monarch Whole Cranberry Sauce * * * Consolidated Foods Corporation Distributors Chicago, Ill."

LIBELED: 12-7-59, S. Dist. Ohio.

CHARGE: 402(a) (2)—when shipped, the article contained an added poisonous and deleterious substance, aminotriazole, which is unsafe within the meaning of 406 since such substance is not required in the production of the food and can be avoided by good manufacturing practice.

DISPOSITION: 2-10-60. Default—destruction.

26345. Cranberry sauce. (F.D.C. No. 43883. S. Nos. 59-839 P, 84-247 P.)

QUANTITY: 59 cases, 24 1-lb. cans each, at Baltimore, Md.

SHIPPED: 10-7-59, from Bridgeton, N.J., by Morris April Bros.

LABEL IN PART: (Can) "Monarch Whole Cranberry Sauce * * * Consolidated Foods Corporation * * * Chicago, Ill."

LIBELED: On or about 12-8-59, Dist. Md.

CHARGE: 402(a)(2)—when shipped, the article contained an added poisonous and deleterious substance, aminotriazole, which is unsafe within the meaning of 406 since such substance is not required in the production of the food and can be avoided by good manufacturing practice.

DISPOSITION: 2-11-60. Default—destruction.

26346. Cranberry sauce. (F.D.C. No. 43868. S. No. 69-531 P.)

QUANTITY: 411 cases, 24 16-oz. cans each, at Minneapolis, Minn.

SHIPPED: 11-3-59 and 11-9-59, from North Chicago, Ill., by National Cranberry Association.

LABEL IN PART: (Can) "Ocean Spray Cranberry Sauce Whole * * * Packed by National Cranberry Association, Hanson, Mass."

LIBELED: 12-7-59, Dist. Minn.

CHARGE: 402(a)(2)—when shipped, the article contained an added poisonous and deleterious substance, aminotriazole, which was unsafe within the meaning of 406 since such substance was not required in the production of the food and could be avoided by good manufacturing practice.

DISPOSITION: 2-11-60. Default—destruction.

26347. Cranberry sauce. (F.D.C. No. 43863. S. No. 81-207 P.)

QUANTITY: 13 cases, 24 1-lb. cans each, at Akron, Ohio.

SHIPPED: 10-23-59, from Bridgeton, N.J., by Morris April Bros.

LABEL IN PART: (Can) "Monarch Whole Cranberry Sauce * * * Consolidated Foods Corporation * * * Chicago, Ill."

LIBELED: 12-16-59, N. Dist. Ohio.

CHARGE: 402(a)(2)—when shipped, the article contained an added poisonous and deleterious substance, aminotriazole, which is unsafe within the meaning of 406 since such substance is not required in the production of the food and can be avoided by good manufacturing practice.

DISPOSITION: 1-18-60. Default—destruction.

26348. Cranberry sauce. (F.D.C. No. 43864. S. No. 81-208 P.)

QUANTITY: 9½ cases, each full case containing 24 1-lb. cans, at Canton, Ohio.

SHIPPED: 10-23-59, from Bridgeton, N.J., by Morris April Bros.

LABEL IN PART: (Can) "Monarch Whole Cranberry Sauce * * * Consolidated Foods Corporation * * * Chicago, Ill."

LIBELED: 12-16-59, N. Dist. Ohio.

CHARGE: 402(a)(2)—when shipped, the article contained an added poisonous and deleterious substance, aminotriazole, which is unsafe within the meaning of 406 since such substance is not required in the production of the food and can be avoided by good manufacturing practice.

DISPOSITION: 1-18-60. Default—destruction.

DRIED FRUIT

26349. Dried prunes (3 seizure actions). (F.D.C. Nos. 42785, 42814, 42833. S. Nos. 42-007 P, 57-736/7 P, 57-950 P.)

QUANTITY: 797 cases, 24 1-lb. bags each, and 385 25-lb. ctns., at Brooklyn and Jamaica, N.Y.

SHIPPED: 12-5-58, from Portland, Oreg., by Hudson House, Inc.

LABEL IN PART: (Bag) "Pride of Oregon Brand Large Prunes * * * Packed by Hudson House, Inc., Portland, Oregon."; (ctn.) "Pride of Oregon Brand * * * Oregon Dried Prunes * * * Packed by Hudson-Duncan & Co. Portland and Dundee, Oregon."

LIBELED: 1-22-59, 2-6-59, 2-13-59, E. Dist. N.Y.

CHARGE: 402(a) (3)—contained insects, insect eggs, insect fragments, rodent excreta, and rodent hairs; and 402(a) (4)—prepared and packed under insanitary conditions.

DISPOSITION: 3-17-59. Consent—claimed by Hudson House, Inc. Segregated; 22,295 lbs. denatured.

26350. Dried sliced apples. (F.D.C. No. 43933. S. No. 63-858 P.)

QUANTITY: 10 50-lb. ctns. at Providence, R.I.

SHIPPED: 7-24-59, from San Jose, Calif.

LIBELED: 11-30-59, Dist. R.I.

CHARGE: 402(a) (3)—contained insects while held for sale.

DISPOSITION: 12-22-59. Default—destruction.

FRESH FRUIT

26351. Fresh cranberries. (F.D.C. No. 43848. S. No. 552 P.)

QUANTITY: 150 cases, 24 1-lb. pkgs. each, at Terre Haute, Ind.

SHIPPED: 11-2-59, from Wisconsin Rapids, Wis., by Indian Trail, Inc.

LABEL IN PART: (Case) "Indian Trail Cranberries * * * Searles 12 Wisconsin Rapids, Wisc."; (pkg) "Indian Trail Cranberries, Wisconsin Grown Fresh Cranberries * * * Packed for Indian Trail Inc. Wisconsin Rapids, Wisconsin."

LIBELED: On or about 12-7-59, S. Dist. Ind.

CHARGE: 402(a) (2)—when shipped, the article was a raw agricultural commodity and contained a pesticide chemical, namely, aminotriazole, which is unsafe within the meaning of 408 since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on cranberries has been prescribed by regulations.

DISPOSITION: 1-13-60. Default—destruction.

26352. Fresh cranberries. (F.D.C. No. 43871. S. No. 75-319 P.)

QUANTITY: 149 cases, 24 1-lb. bags each, at Rockford, Ill.

SHIPPED: 11-5-59, from Wisconsin Rapids, Wis., by Indian Trail, Inc.

LABEL IN PART: (Bag) "Indian Trail Cranberries Wisconsin Grown Fresh * * * Packed For Indian Trail, Inc., Wisconsin Rapids, Wisconsin."

LIBELED: 12-8-59, N. Dist. Ill.

CHARGE: 402(a)(2)—when shipped, the article was a raw agricultural commodity and contained a pesticide chemical, namely, aminotriazole, which is unsafe within the meaning of 408 since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on cranberries has been prescribed by regulations.

DISPOSITION: 1-18-60. Default—destruction.

26353. Fresh cranberries. (F.D.C. No. 43845. S. No. 64-680 P.)

QUANTITY: 75 cases, 24 1-lb. pkgs. each, at Springfield, Ill.

SHIPPED: 10-24-59, from Eagle River, Wis., by Cranberry Products, Inc.

LABEL IN PART: (Pkg.) "Eagle River * * * Cranberries Packed for Cranberry Products, Inc. Eagle River, Wisc."

LIBELED: 11-27-59, S. Dist. Ill.

CHARGE: 402(a)(2)—the article contained aminotriazole, an added pesticide chemical, when shipped.

DISPOSITION: 12-31-59. Default—destruction.

FROZEN FRUIT

26354. Frozen strawberries. (F.D.C. No. 43965. S. No. 85-701 P.)

QUANTITY: 851 30-lb. cans at Milton, N.Y.

SHIPPED: 6-12-58, from Laredo, Tex.

LIBELED: 12-23-59, S. Dist. N.Y.

CHARGE: 402(a)(3)—contained decomposed strawberries while held for sale.

DISPOSITION: 2-10-60. Default—destruction.

JAM

26355. Apricot jam. (F.D.C. No. 43591. S. No. 53-232 P.)

QUANTITY: 16 cases, 12 1-lb. 4-oz. jars each, at Phoenix, Ariz.

SHIPPED: 8-4-59, from Bell Gardens, Calif., by Dixie Preserves, Ltd.

LABEL IN PART: (Jar) "Dixie * * * Apricot Jam Dixie Preserves Ltd., Los Angeles, California."

LIBELED: 10-14-59, Dist. Ariz.

CHARGE: 403(g)(1)—the article purported to be and was represented as apricot jam, and it fell below the definition and standard of identity prescribed by regulations since the article was made from a mixture composed of less than 45 parts by weight of the specified fruit ingredient to each 55 parts by weight of one of the sweetening ingredients specified in such definition and standard.

DISPOSITION: 11-25-59. Default—delivered to a charitable institution.

VEGETABLES AND VEGETABLE PRODUCTS*

26356. Bibb lettuce. (F.D.C. No. 44006. S. No. 88-417 P.)

QUANTITY: 213 5-lb. baskets at Cincinnati, Ohio.

SHIPPED: 12-17-59, from Terre Haute, Ind., by J. W. Davis Co.

LABEL IN PART: (Lid) "Bibb Lettuce * * * J. W. Davis Co. Terre Haute, Ind."

*See also No. 26317.

LIBELED: 12-22-59, S. Dist. Ohio.

CHARGE: 402(a)(2)—when shipped, the article was a raw agricultural commodity and contained a pesticide chemical, namely, pentachloro nitrobenzene, which is unsafe within the meaning of 408 since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on lettuce has been prescribed by regulations.

DISPOSITION: 12-23-59. Consent—destruction.

26357. Bibb lettuce. (F.D.C. No. 44211. S. Nos. 89-944/5 P.)

QUANTITY: 464 5-lb. baskets at Chicago, Ill.

SHIPPED: 1-19-60 and 1-21-60, from Terre Haute, Ind., by J. W. Davis Co.

LIBELED: 1-28-60, N. Dist. Ill.

CHARGE: 402(a)(2)—when shipped, the article was a raw agricultural commodity and contained a pesticide chemical, namely, pentachloro nitrobenzene, which is unsafe within the meaning of 408 since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on lettuce has been prescribed by regulations.

DISPOSITION: 2-25-60. Default—destruction.

26358. Canned pumpkin. (F.D.C. No. 43867. S. No. 52-762 P.)

QUANTITY: 286 cases, 24 15-oz. cans each, at La Crosse, Wis.

SHIPPED: 10-2-59, from Owatonna, Minn., by Owatonna Canning Co.

LABEL IN PART: (Can) "IGA Golden Pumpkin * * * Packed for Independent Grocers' Alliance Distributing Co. Chicago."

LIBELED: 12-8-59, W. Dist. Wis.

CHARGE: 402(b)(2)—when shipped, starch had been substituted in whole or in part for pumpkin; 402(a)(3)—contained a filthy substance by reason of having been prepared from dirty pumpkins; and 403(i)(2)—the article was made from two or more ingredients and its label failed to bear the common or usual name of each such ingredient.

DISPOSITION: 2-5-60. Default—destruction.

26359. Canned green peppers. (F.D.C. No. 43925. S. No. 68-158 P.)

QUANTITY: 48 cases, 4 1-gal. jars each, at Philadelphia, Pa.

SHIPPED: 10-7-59, from Sandtown, Del., by George Nechay & Sons.

LIBELED: 11-24-59, E. Dist. Pa.

CHARGE: 402(a)(3)—contained insects and insect parts when shipped; 403(e)—the article failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor, and (2) an accurate statement of the quantity of contents; and 403(i)—the label of the article failed to bear (1) the common or usual name of the article and (2) a list of the ingredients of the article by their common or usual name.

DISPOSITION: 12-24-59. Default—destruction.

26360. Celery. (F.D.C. No. 44141. S. Nos. 68-317/8 P.)

QUANTITY: 340 crates, each containing 6 doz. stalks, at Philadelphia, Pa.

SHIPPED: 12-9-59 and 12-14-59, from Sanford, Fla., by Chase & Co.

LABEL IN PART: (Crate) "Heart Fresh Celery Chase and Company Sanford, Florida."

LIBELED: 12-28-59, E. Dist. Pa.

CHARGE: 402(a)(2)—the article was a raw agricultural commodity, and, when shipped, contained a pesticide chemical, parathion, which is unsafe within the meaning of 408 since the quantity of such pesticide chemical on the article is not within the limits of the tolerance prescribed by regulations.

DISPOSITION: 12-29-59. Consent—destruction.

26361. Dried white corn kernels. (F.D.C. No. 44046. S. No. 75-673 P.)

QUANTITY: 393 bags, some containing 100 lbs. and some containing 95 lbs., at Alma, Ark., in possession of Alma Canning Co.

SHIPPED: 11-23-59 and 12-17-59, from Devine, Tex.

LIBELED: 1-27-60, W. Dist. Ark.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary condition.

DISPOSITION: 2-18-60. Consent—claimed by Alma Canning Co. Segregated; 420 lbs. denatured.

26362. Dried green split peas and dried yellow split peas. (F.D.C. No. 44176. S. Nos. 90-710/12 P.)

QUANTITY: 31 100-lb. bags at Springfield, Mass.

SHIPPED: Between 10-10-57 and 2-21-59, from Marcellus Falls, N.Y.

LIBELED: 1-8-60, Dist. Mass.

CHARGE: 402(a)(3)—contained rodent urine and insects while held for sale.

DISPOSITION: 3-28-60. Default—destruction.

26363. Dried lupini beans. (F.D.C. No. 44195. S. No. 90-117 P.)

QUANTITY: 14 100-lb. bags at South Boston, Mass., in possession of C. Pappas Co., Inc.

SHIPPED: 6-16-58, from New York, N.Y.

LIBELED: 1-22-60, Dist. Mass.

CHARGE: 402(a)(3)—contained insects and rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 3-7-60. Default—destruction.

TOMATOES AND TOMATO PRODUCTS

26364. Canned tomatoes. (F.D.C. No. 44039. S. No. 70-942 P.)

QUANTITY: 237 cases, 6 6-lb. 6-oz. cans each, at Cincinnati, Ohio.

SHIPPED: 11-6-59, from Sweetzers, Ind., by Beyer Canning Co.

LABEL IN PART: (Can) "Thomas Brand * * * Tomatoes * * * Packed for Geo. H. Thomas, Inc., Cincinnati, Ohio."

LIBELED: 1-22-60, S. Dist. Ohio.

CHARGE: 402(a)(3)—contained *Drosophila* fly eggs and maggots when shipped.

DISPOSITION: 2-24-60. Default—destruction.

26365. Canned tomatoes. (F.D.C. No. 44254. S. No. 74-877 P.)

QUANTITY: 158 cases, 24 1-lb. 3-oz. cans each, at Chicago, Ill.

SHIPPED: 12-18-59, from Elwood, Ind., by Fettig Canning Corp.

LABEL IN PART: (Can) "A&P * * * Tomatoes * * * The Great Atlantic and Pacific Tea Company, New York, N.Y. Distributor."

LIBELED: 2-23-60, N. Dist. Ill.

CHARGE: 402(a)(3)—contained fly eggs, maggots, and decomposed tomato material when shipped.

DISPOSITION: 3-18-60. Default—destruction.

26366. Canned tomatoes. (F.D.C. No. 43584. S. No. 85-161 P.)

QUANTITY: 1,196 cases, 24 1-lb. cans each, at Maspeth, N.Y.

SHIPPED: 8-19-59, from Princess Anne, Md., by King's Creek Canning Co.

LABEL IN PART: (Can) "Iona Tomatoes * * * The Great Atlantic & Pacific Tea Co. New York, N.Y., Distributors."

LIBELED: 10-14-59, E. Dist. N.Y.

CHARGE: 402(a)(3)—contained fly eggs and maggots; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 12-30-59. Default—destruction.

26367. Canned tomatoes. (F.D.C. No. 43799. S. Nos. 66-167/8 P.)

QUANTITY: 308 cases, 24 1-lb. 11-oz. cans each, at Belle Vernon, Pa.

SHIPPED: 9-4-59 and 10-2-59, from Preston, Md., by A. W. Sisk & Son.

LIBELED: 11-11-59, W. Dist. Pa.

CHARGE: 402(a)(3)—contained fly eggs and maggots; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 2-11-60. Default—destruction.

26368. Tomato catsup and tomato puree. (F.D.C. No. 44255. S. Nos. 68-471/2 P.)

QUANTITY: 4 cases, 6 7-lb. cans each, of tomato catsup, and 15 cases, 6 6-lb. 9-oz. cans each, of tomato puree, at Pennsauken, N.J.

SHIPPED: 12-15-59, from Bristol, Pa., by Delaware Valley Packing Co.

LABEL IN PART: (Can) "Penn's Manor Tomato Catsup [or "Tomato Puree"] packed by Delaware Valley Packing Co., Bristol, Pa."

LIBELED: 2-25-60, Dist. N.J.

CHARGE: 402(a)(3)—contained fly eggs and maggots, and (tomato catsup) decomposed tomato material when shipped.

DISPOSITION: 3-23-60. Default—destruction.

26369. Tomato puree. (F.D.C. No. 44062. S. No. 66-548 P.)

QUANTITY: 569 cases, 24 1-lb. 12-oz. cans each, at Buffalo, N.Y.

SHIPPED: 12-14-59, from Hollister, Calif., by Fairview Packing Co., Inc.

LABEL IN PART: (Can) "Marca La Tosca Fancy Tomato Puree * * * La Tosca Products Company, Buffalo, N.Y."

LIBELED: 2-10-60, W. Dist. N.Y.

CHARGE: 402(a)(3)—contained decomposed tomato material when shipped.

DISPOSITION: 3-15-60. Default—destruction.

MEAT PRODUCTS AND POULTRY

26370. Frozen ground pork. (F.D.C. No. 44171. S. No. 59-530 P.)

QUANTITY: 190 cases, each containing 60 lbs. packed in 15-lb. loaves, at Richmond, Va.

SHIPPED: 11-5-59, from Boston, Mass., by North American Packing Corp.

LIBELED: 1-8-60, E. Dist. Va.

CHARGE: 402(a)(3)—contained decomposed meat when shipped.

DISPOSITION: 2-18-60. Default—destruction.

26371. Poultry. (F.D.C. No. 43994. S. No. 52-658 P.)

QUANTITY: 572 cases, 6 5-lb. boxes each, at Duluth, Minn.

SHIPPED: 8-18-59, from Chicago, Ill.

LIBELED: 12-15-59, Dist. Minn.

CHARGE: 402(a)(3)—contained decomposed chicken parts while held for sale.

DISPOSITION: 1-29-60. Default—destruction.

26372. Dressed turkeys. (F.D.C. No. 37835. S. Nos. 11-862/3 M, 11-867 M.)

INDICTMENT RETURNED: 6-8-55, Dist. Maine, against Penobscot Poultry Co., Inc., Belfast, Maine, and Abraham I. Savitz, president and treasurer of the corporation.

SHIPPED: Between 11-16-54 and 12-16-54, from Maine to N.Y.

CHARGE: 402(a)(3)—(Counts 1 & 2) the turkeys consisted in part of a filthy substance by reason of the presence of birds smeared with fecal matter and contaminated with decomposed crop material, feathers, and extraneous matter and (count 3) the turkeys consisted in part of decomposed birds; and 402(a)(5)—(counts 2 & 3) the turkeys were in part the product of a diseased animal, namely, diseased turkeys, and (count 2) they also were in part the product of an animal that had died otherwise than by slaughter.

PLEA: Not guilty.

DISPOSITION: The case came on for trial before the court and jury on 9-4-56.

In the course of the trial the adulteration charges relating to the decomposition of the poultry were dropped by the Government. The trial was concluded on 9-7-56, with the return of a verdict of guilty on count 1 of the indictment and verdicts of not guilty on counts 2 and 3. Thereafter, on the same day, the court imposed a fine of \$3,000 against the corporation and \$1,000 against the individual. The defendants appealed to the United States Court of Appeals for the First Circuit and on 5-8-57, the following opinion was handed down by that court (244 F. 2d 94):

HARTIGAN, *Circuit Judge*: "This is an appeal from judgments of conviction entered in the United States District Court for the District of Maine on an indictment charging appellants with violation of Sections 301(a) (52 Stat. 1042, 21 U.S.C. § 331(a)) and 402(a)(3) (52 Stat. 1046, 21 U.S.C. § 342(a)(3)) of the Federal Food, Drug and Cosmetic Act.¹

¹ "§ 331. *Prohibited acts*

"The following acts and the causing thereof are hereby prohibited:

"(a) The introduction or delivery for introduction into interstate commerce of any food, drug, device, or cosmetic that is adulterated or misbranded.

* * *

"§ 342. *Adulterated food*

"A food shall be deemed to be adulterated—

"(a) * * * (3) if it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for food; * * *."

"Appellant Penobscot Poultry Co., Inc., a Maine corporation, processed, packed and introduced into interstate commerce at Presque Isle, Maine, certain 'New York dressed' turkeys destined for New York.² Appellant Abraham I. Savitz was president and treasurer of Penobscot. The indictment charged the appellants in three counts with two interstate shipments of turkeys which were adulterated within the meaning of the Act and also alleged that the appellants previously had been convicted of a violation of the Act on December 19, 1952.

"At the trial the allegations in the three counts of the indictment charging that the turkeys were adulterated under § 342(a) (3) in that they were contaminated with various forms of decomposed matter were dropped by the Government on the suggestion of the trial judge. After trial by jury the appellants were convicted on the remaining allegation in Count 1 and acquitted on the remaining allegations of Counts 2 and 3 of the indictment. A fine of \$3,000 was imposed upon appellant Penobscot and a fine of \$1,000 was imposed on appellant Savitz.

"As indicated above, we are concerned only with Count 1 here. That count in pertinent part alleges :

The Grand Jury charges :

That Penobscot Poultry Co., Inc., a Maine corporation, and Abraham I. Savitz, an individual, at the time hereinafter mentioned president and treasurer of said corporation, the defendants herein, did, within the District of Maine, on or about November 16, 1954, in violation of the Federal Food, Drug, and Cosmetic Act, unlawfully cause to be introduced and delivered for introduction into interstate commerce at Presque Isle, State of Maine, for delivery to New York, State of New York, consigned to Producers Distributing Agency, Inc., a number of crates containing a food, to wit, dressed turkeys.

That said food, when caused to be introduced and delivered for introduction into interstate commerce, as aforesaid, was adulterated within the meaning of 21 U.S.C. 342(a) (3), in that said food consisted in part of a filthy substance by reason of the presence therein of birds smeared with fecal matter * * *.

"The turkeys in question were examined by Food and Drug inspectors in the freezer of a New York consignee on November 18, 1954. The shipment examined consisted of thirteen crates and was admittedly shipped by the appellants. The inspectors testified that the edible portions of certain birds in this shipment were grossly contaminated with fecal matter; that portions of the birds were torn and macerated; and that fecal matter oozed from the vents of the birds. The Government's evidence leaves no doubt that these birds were in an adulterated condition when examined in New York. However, the issue on appeal being one of law we need not set out the details of adulteration in full.

"The Government also presented evidence concerning the conditions under which turkeys were generally slaughtered and processed at appellants' plant. A witness testified that appellants, before the shipment in question, had been warned that they should properly starve the turkeys and vent them before shipment. By the presentation of its case the Government attempted to prove that the testimony of its witnesses regarding the condition of the turkeys as of the date of the examination in New York substantially reflected their condition on the date of the shipment at Presque Isle.

"When both parties had rested, the appellants requested the trial judge to instruct the jury as follows :

Unless the evidence satisfied you beyond a reasonable doubt that these turkeys were so adulterated that the food consisted at least in part of a 'filthy putrid and decomposed substance' at the time of leaving the Presque

² "New York dressed" poultry is poultry that has been slaughtered and the feathers removed; the intestines, however have been left intact, i.e. they are not eviscerated prior to shipment. The record further discloses that it is not violative of the Act to ship birds in interstate commerce that are "New York dressed."

Isle plant, you must find these respondents not guilty of this charge. These respondents are not charged with having so prepared or packed the turkeys that they might subsequently become adulterated.

"The requested instruction was refused and the court instead instructed the jury:

* * * Now, the Government says and has to prove to you, that this food consisted, not in whole—the status says: 'Consisted in whole or in part', and there is no question about 'whole' here. Did it consist in part of a filthy substance? The Government says that it did by reason of fecal matter on the edible portions of the birds. I don't gather that it complains about fecal matter in the intestines if it stayed there, and we won't concern ourselves with that. It does object to the introduction into interstate commerce, and there is no question but what these birds were introduced into interstate commerce, of birds with fecal matter on them outside of the intestines, on the skin or other edible portions, *or of birds containing fecal matter which might reasonably be expected to and did get on the edible portions in transit.* * * * [Emphasis added.]

* * *

I think I have told you that there were two possibilities here that you were to consider about this matter of shipment into interstate commerce. If the birds were in violation at the time they were shipped, that would satisfy the requirements of the Act. I mean it would satisfy you of guilt that they were in violation at the time they were shipped. But it might be that the actual condition would occur only in transit. Now, we aren't concerned here with some extraneous matter getting into the birds from outside due to faulty packing during shipment. That might raise a very different question and, indeed, I think it would require the Government if it had such a claim to proceed under a different portion of the Act. But we are concerned with birds that were shipped, admittedly, with this fecal matter at the time they left and were introduced for shipment, and I have suggested to you by indirection, *and I now instruct you formally that if these birds containing such fecal matter might reasonably be expected by the defendants to become in violation of the requirements of the Act during shipment, and did so become, that you may find that that was a violation of this Act.* * * * [Emphasis added.]

"The appellants objected to the district court's refusal to instruct in accordance with their request and to the instructions of the court underlined above. These objections present the sole issue on appeal.

"We hold that it was error for the trial judge to instruct the jury that appellants could be convicted of violating § 331(a) and § 342(a) (3) if it found that appellants might have reasonably expected the fecal matter to get on and it did get on the edible portions of the turkeys in transit.

"Sections 331(a) and 342(a) (3), which are in issue here, are criminal statutes. It is well established that criminal statutes should be strictly construed by the courts. *United States v. Resnick*, 299 U.S. 207 (1936). See also *Kordel v. United States*, 335 U.S. 345 (1948). Moreover, it is clear that where the language of this Act is unambiguous its words must be given their ordinary meaning. *United States v. R. C. Boeckel & Co.*, 221 F. 885 (1 Cir. 1915). Applying this principle of narrow construction, we believe the words of § 331(a) and § 342(a) (3), given their usual and ordinary meaning, prohibit the introduction into interstate commerce of food which *at the time of introduction* consists in whole or in part of a filthy substance. That is, we think the language of the two provisions looks to a present state of consisting of a filthy substance at the time of 'introduction or delivery for introduction into interstate commerce,' and not to a future condition that might be reasonably expected to arise after such introduction. Cf. *United States v. Phelps Dodge Mercantile Co.*, 157 F. 2d 453 (9 Cir. 1946), cert. denied 330 U.S. 818 (1947).³

³ Due to the *Phelps Dodge* decision, Section 304(a) of the Act (52 Stat. 1044, as amended 21 U.S.C. § 334(a)) was amended by Act, June 24, 1948. 2 U.S. Code Cong. Serv., p. 2119, Senate Rep. No. 1221, 80th Cong. 2d Sess. 1948.

"In construing these two sections as prohibiting only the introduction into interstate commerce of food which at the time of introduction is adulterated, we are mindful of the words of the Supreme Court in *Kordel v. United States*, supra at 349, where it stated: 'But there is no canon against using common sense in reading a criminal law, so that strained and technical constructions do not defeat its purpose by creating exceptions from or loopholes in it.' Our construction leaves no loophole in the Act that would defeat its purpose. The offense in this case seems to be covered by Section 402(a)(4) of the Act (52 Stat. 1046, 21 U.S.C. § 342(a)(4)).⁴ Had the appellants been charged with a violation of this sub-section the instructions given to the jury might have been correct. For it is § 342(a)(4) which is designed to make it a criminal offense for a person to prepare, pack or hold food under insanitary conditions that it may become contaminated. *Berger v. United States*, 200 F. 2d 818 (8 Cir. 1952).

"Of course, the district court also instructed the jury that they could find the appellants guilty under § 342(a)(3) if they were convinced that the turkeys consisted at least in part of a filthy substance at the time of introduction into interstate commerce. If the district court had limited its instructions to this the jury might have so found notwithstanding that there was no testimony concerning the actual condition of these turkeys at the time of such introduction. The Government might have effectively established that the condition of the birds as of the date of the examination in New York substantially reflected their condition on the date of the shipment. See *Pasadena Research Laboratories v. United States*, 169 F. 2d 375 (9 Cir. 1948), cert. denied 335 U.S. 853 (1948). But we cannot say that the jury necessarily did so find. See *United States v. Donnelly*, 179 F. 2d 227 (7 Cir. 1950). It is more than probable that in the posture of the evidence in the instant case the jury found the appellants guilty under the erroneous instruction of the trial judge.

"By this erroneous instruction we think 'the jury must have been misled as to the offense actually charged in the indictment.' *Malaga v. United States*, 57 F. 2d 822, 825 (1 Cir. 1932). The appellants, having been charged in the indictment with the offense prescribed in §§ 331(a), 342(a)(3), could be convicted only of that offense and no other. 'The rule that a man shall not be charged with one crime and convicted of another, may sometimes cover real guilt, but its observance is essential to the preservation of innocence.' *The Hoppet*, 11 U.S. (7 Cranch) 388, 393 (1813). It follows from this rule, that proof at trial must correspond to the allegations of the pleadings so '(1) that the accused shall be definitely informed as to the charges against him, so that he may be enabled to present his defense and not be taken by surprise by the evidence offered at the trial; and (2) that he may be protected against another prosecution for the same offense.' *Berger v. United States*, 295 U.S. 78, 82 (1935).

"A judgment will be entered vacating the judgments of the district court, setting aside the verdicts, and remanding the case for further proceedings not inconsistent with this opinion."

Following the remanding of the case to the district court, the case was again referred to the grand jury for a new indictment. The grand jury failed to return a new indictment and, on 2-6-58, the original indictment was dismissed.

NUTS

26373. Unshelled pecans. (F.D.C. No. 44155. S. No. 51-460 P.)

QUANTITY: 46 bags, 4,085 lbs. total, at Chicago, Ill.

SHIPPED: 11-19-59, from Albany, Ga.

LIBELED: 1-6-60, N. Dist. Ill.

⁴ "§ 342. Adulterated food

"A food shall be deemed to be adulterated—* * *

"(a) * * * (4) if it has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health;"

CHARGE: 402(a)(3) —contained moldy, decomposed, and shriveled nuts, and empty shells while held for sale.

DISPOSITION: 2-1-60. Consent—claimed by Anton-Argires Bros. & Co., Inc., Albany, Ga. Segregated; 2,540 lbs. destroyed.

26374. Unshelled pecans. (F.D.C. No. 44152. S. Nos. 86-071/2 P.)

QUANTITY: 192 100-lb. bags at New York, N.Y.

SHIPPED: 11-14-59, from Cairo, Ga.

LIBELED: 1-6-60, S. Dist. N.Y.

CHARGE: 402(a)(3)—contained moldy, decomposed nuts, and empty shells while held for sale.

DISPOSITION: 1-29-60. Consent—claimed by Graham Co., Inc., New York, N.Y. Segregated; 1,635 lbs. denatured.

26375. Unshelled pecans. (F.D.C. No. 44142. S. No. 47-194 P.)

QUANTITY: 31 bags, 3,117 lbs. total, at Chicago, Ill.

SHIPPED: 11-12-59 and 11-25-59, from Albany, Ga.

LIBELED: 12-23-59, N. Dist. Ill.

CHARGE: 402(a)(3)—contained moldy, rancid, decomposed, and shriveled nuts while held for sale.

DISPOSITION: 2-1-60. Consent—claimed by Anton-Argires Bros. & Co., Inc., Albany, Ga. Segregated; 2,060 lbs. destroyed.

26376. Unshelled pecans. (F.D.C. No. 44035. S. No. 92-191 P.)

QUANTITY: 36 bags, 2,000 lbs. total, at Houston, Tex.

SHIPPED: 12-6-59, from Long Beach, Miss.

LIBELED: 1-18-60, S. Dist. Tex.

CHARGE: 402(a)(3)—contained moldy, rancid, decomposed, and shriveled nuts, and empty shells while held for sale.

DISPOSITION: 2-24-60. Default—destruction.

26377. Unshelled pecans. (F.D.C. No. 44030. S. No. 42-927 P.)

QUANTITY: 6 100-lb. bags at Salt Lake City, Utah.

SHIPPED: 12-7-59, from Los Angeles, Calif.

LIBELED: 1-13-60, Dist. Utah.

CHARGE: 402(a)(3)—contained insects, moldy, rancid, decomposed, and shriveled nuts while held for sale.

DISPOSITION: 3-28-60. Default—delivered to a public institution for use as animal feed.

26378. Unshelled pecans. (F.D.C. No. 44004. S. No. 51-761 P.)

QUANTITY: 98 cases, 24 1-lb. bags each, at Milwaukee, Wis.

SHIPPED: 11-7-59, from Cairo, Ga.

LIBELED: 12-21-59, E. Dist. Wis.

CHARGE: 402(a)(3)—contained moldy, rancid, decomposed, and shriveled nuts, and empty shells while held for sale.

DISPOSITION: 1-15-60. Consent—claimed by Sam A. Pierce, Inc., Cairo, Ga. Segregated; 24 lbs. destroyed.

26379. Unshelled pecans. (F.D.C. No. 44000. S. No. 72-413 P.)

QUANTITY: 192 cases, 24 1-lb. bags each, at Cairo, Ga.

SHIPPED: 12-11-59, from Chicago, Ill. This was a return shipment.

LABEL IN PART: (Bag) "Gold Nugget Brand Pecans * * * Packed by Sam A. Pierce, Inc., Cairo, Ga."

LIBELED: 12-17-59, M. Dist. Ga.

CHARGE: 402(a)(3)—contained moldy, rancid, and decomposed nuts when shipped.

DISPOSITION: 1-25-60. Consent—claimed by Sam A. Pierce, Inc., Cairo, Ga. Segregated; 232 lbs. converted into animal feed.

26380. Unshelled pecans. (F.D.C. No. 43977. S. No. 50-900 P.)

QUANTITY: 60 50-lb. bags at Chicago, Ill.

SHIPPED: 10-28-59, from Albany, Ga.

LIBELED: 1-6-60, N. Dist. Ill.

CHARGE: 402(a)(3)—contained moldy, decomposed, and shriveled nuts, and empty shells while held for sale.

DISPOSITION: 2-1-60. Consent—claimed by Anton-Argires Bros. & Co., Inc., Albany, Ga. Segregated; 990 lbs. destroyed.

26381. Unshelled pecans (3 seizure actions). (F.D.C. Nos. 43851, 43857, 43879. S. Nos. 53-828 P, 53-851 P, 75-840 P, 75-848 P, 75-928 P.)

QUANTITY: 640 cases, 24 1-lb. bags each, at St. Louis, Mo.

SHIPPED: 11-4-59 and 11-23-59, from Cairo, Ga.

LIBELED: 12-2-59, 12-3-59, 12-8-59, E. Dist. Mo.

CHARGE: 402(a)(3)—contained insects, moldy, decomposed, shriveled nuts, and empty shells while held for sale.

DISPOSITION: 1-15-60. Sam A. Pierce, Inc., Cairo, Ga., having appeared as claimant and consented to the entry of a decree and the seizure actions having been consolidated, judgment of condemnation was entered providing for release of the article under bond for segregation of the good nuts from the bad. As a result of the segregation operations, 501 lbs. of nuts were found to be unfit.

26382. Unshelled walnuts. (F.D.C. No. 43859. S. No. 71-860 P.)

QUANTITY: 96 cases, 48 1-lb. bags each, at Tampa, Fla.

SHIPPED: 10-15-59, from Stockton, Calif.

LIBELED: 12-3-59, S. Dist. Fla.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 1-7-60. Consent—claimed by Diamond Walnut Growers, Inc., Stockton, Calif. Segregated; 3,667 lbs. destroyed.

26383. Shelled pecans. (F.D.C. No. 44059. S. No. 17-811 P.)

QUANTITY: 18 30-lb. cases at Dayton, Ohio.

SHIPPED: 12-9-59, from Memphis, Tenn., by Memphis Pecan Co.

LABEL IN PART: "Top Quality Memphis Shelled Pecans * * * Memphis Pecan Company, Memphis, Tenn. * * * Small Pieces."

LIBELED: 2-9-60, S. Dist. Ohio.

CHARGE: 402(a)(3)—contained *E. coli*; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 3-16-60. Default—destruction.

26384. Shelled pecans. (F.D.C. No. 44057. S. No. 83-784 P.)

QUANTITY: 3 30-lb. ctns. at Denver, Colo.

SHIPPED: 9-30-59, from El Paso, Tex.

LIBELED: 2-8-60, Dist. Colo.

CHARGE: 402(a)(3)—contained rancid nuts while held for sale.

DISPOSITION: 3-28-60. Default—destruction.

26385. Mixed nuts. (F.D.C. No. 43837. S. No. 71-519 P.)

QUANTITY: 180 cases, 24 1-lb. boxes each, at Cincinnati, Ohio.

SHIPPED: 10-22-59, from New York, N.Y., by Jos. A. Zaloom & Co., Inc.

LABEL IN PART: (Case) "Home Service Trays Universal Brand Mixed Nuts 6067 Wm. A. Camp Co. Division Jos. A. Zaloom & Co., Inc., New York, N.Y." and (box) "Universal Extra Fancy Mixed Nuts * * * Jos. A. Zaloom & Co., Inc., Wm. A. Camp Co. Div."

LIBELED: 11-30-59, S. Dist. Ohio.

CHARGE: 402(a)(3)—contained insects, and rancid, decomposed nuts when shipped.

DISPOSITION: 1-25-60. Consent—claimed by Jos. A. Zaloom & Co., Inc. Segregated; 540 lbs. destroyed.

26386. Mixed nuts. (F.D.C. No. 43995. S. No. 71-341 P.)

QUANTITY: 70 cases, 24 1-lb. pkgs. each, at Columbus, Ohio.

SHIPPED: 10-23-59, from New York, N.Y.

LIBELED: 11-30-59, S. Dist. Ohio.

CHARGE: 402(a)(3)—contained insect-infested, moldy, rancid, decomposed, and shriveled nuts, and empty shells while held for sale.

DISPOSITION: 1-26-60. Consent—claimed by Jos. A. Zaloom & Co., Inc., New York, N.Y. Segregated; 333 lbs. of walnuts, and 144 lbs. of pecans destroyed.

26387. Mixed nuts. (F.D.C. No. 43881. S. No. 15-997 P.)

QUANTITY: 298 cases, 24 1-lb. bags each, at Knoxville, Tenn.

SHIPPED: 11-10-59, from New York, N.Y.

LIBELED: 12-11-59, E. Dist. Tenn.

CHARGE: 402(a)(3)—contained insects, moldy, rancid, decomposed, shriveled nuts, and empty shells while held for sale.

DISPOSITION: 1-18-60. Consent—claimed by J. F. Murry Importing Co., Inc., New York, N.Y. Segregated; 66 lbs. destroyed.

26388. Pistachio nuts. (F.D.C. No. 43444. S. No. 62-503 P.)

QUANTITY: 7 25-lb. tins at Milwaukee, Wis.

SHIPPED: 7-10-59, from New York, N.Y.

LIBELED: 9-10-59, E. Dist. Wis.

CHARGE: 402(a)(3)—contained insects and insect webbing while held for sale.

DISPOSITION: 10-21-59. Consent—claimed by American Pistachio Corp., New York, N.Y. Segregated; 5 lbs. destroyed.

SPICES, FLAVORS, AND SEASONING MATERIALS*

26389. Nutmegs. (F.D.C. No. 43634. S. No. 85-464 P.)

QUANTITY: 39 150-lb. bags at Brooklyn, N.Y.

SHIPPED: 4-24-59, from outside the United States.

LIBELED: 11-12-59, E. Dist. N.Y.

CHARGE: 402(a) (3)—contained wormy and moldy nutmegs while held for sale.

DISPOSITION: 1-21-60. Consent—claimed by East India Trading Co., Inc., New York, N.Y. Segregated; 1,129 lbs. destroyed.

26390. Cinnamon quills. (F.D.C. No. 43627. S. No. 85-466 P.)

QUANTITY: 88 100-lb. bales at Brooklyn, N.Y.

SHIPPED: Prior to 8-20-59, from outside the United States.

LIBELED: 11-4-59, E. Dist. N.Y.

CHARGE: 402(a) (3)—contained insects while held for sale.

DISPOSITION: 1-21-60. Consent—claimed by East India Trading Co., Inc., New York, N.Y. Segregated; 1,219 lbs. destroyed.

26391. Savory spice. (F.D.C. No. 43381. S. No. 79-382 P.)

QUANTITY: 1,356 cans at Norwalk, Ohio.

SHIPPED: 12-8-58 and 2-3-59, from Bethlehem, Pa., by Durkee Famous Foods.

LABEL IN PART: "1½ Oz. Net Durkee's Savory Durkee Famous Foods, Elmhurst, N.Y."

RESULTS OF INVESTIGATION: Examination showed that the article was short weight.

LIBELED: 6-29-59, N. Dist. Ohio.

CHARGE: 403(e) (2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents since the label statement "1½ Oz. Net" was inaccurate.

DISPOSITION: 8-4-59. Default—delivered to a charitable institution.

26392. Vanilla extract. (F.D.C. No. 42183. S. No. 12-410 P.)

QUANTITY: 3 4-oz. btls., 24 12-oz. btls., and 10 gals. in bulk, at Oak Park, Ill., in possession of Three V Medical Co.

SHIPPED: During 1957 and 1958, the vanilla ingredient of the article was shipped to Oak Park, Ill., from Cincinnati, Ohio.

LABEL IN PART: (Btl.) "Three V.V.V. Brand * * * Compound Vanilla Extract
Composed of: Pure Vanilla 25.00% Vanillin .7812% Coumarin .0038% Alcohol
10.00% Prop. Glycol 10.00% Sugar Syrup 54.00%-100% Colored with Caramel
Three V Products Co."

RESULTS OF INVESTIGATION: The Three V Medical Co. compounded the article from the vanilla which had been shipped in interstate commerce as described above.

LIBELED: 9-12-58, N. Dist. Ill.

*See also No. 26317.

CHARGE: 402(a)(2)—while held for sale, the article contained an added poisonous and deleterious substance, coumarin, which is unsafe within the meaning of 406; and 403(a)—the name "Vanilla Extract" on the label of the article was false and misleading as applied to a product to which vanillin and coumarin had been added.

The libel alleged also that certain drugs were misbranded under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices, No. 5763.

DISPOSITION: 10-14-58. Default—destruction.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE*

26393. Anabolic S-B-G Tablets (multivitamins). (F.D.C. No. 43132. S. No. 13-704 P.)

QUANTITY: 234 ctns., 3 28-tablet pkgs. each, at Chicago, Ill.

SHIPPED: 1-27-59, from Glendale, Calif. by Anabolic Foods, Inc.

LABEL IN PART: (Pkg. & ctn.) "S-B-G Special An Organic Dietary Food Supplement Four Tablets Supply: * * * B-12 . . . 2 mcg. * * * C * * * (1200 Int. Units) 60 mg. D * * * 800 Int. Units * * * Phosphorus 37 MDR * * * 278 mg. * * * Iodine 100% MDR * * * 0.1 mg. * * * Distributed by Anabolic Foods, Inc. Chicago, Ill. * * * Glendale, Calif."

RESULTS OF INVESTIGATION: Examination showed that the article contained approximately 50 percent of the declared amount of vitamin B₁₂, 76 percent of the declared amount of vitamin C, 40 percent of the declared amount of vitamin D, 63 percent of the declared amount of phosphorus, and little or no iodine.

LIBELED: 4-30-59, N. Dist. Ill.

CHARGE: 402(b)(1)—when shipped, the valuable constituents, vitamin B₁₂, vitamin C, vitamin D, phosphorus and iodine, had been in whole or in part omitted or abstracted from the article; and 403(a)—the label statements "Four Tablets Supply: * * * B-12 . . . 2 mcg. * * * C * * * 60 mg. D 800 Int. Units * * * phosphorus 278 mg. * * * Iodine * * * 0.1 mg." were false and misleading.

DISPOSITION: 6-25-59. Default—destruction.

26394. Bal-Nu-Vita Food Supplement. (F.D.C. No. 44056. S. No. 92-565 P.)

QUANTITY: 234 pkgs., each containing 28 mineral tablets and 14 vitamin tablets, at Torrance, Calif.

SHIPPED: 12-4-59, by Stiles-Van Zandt Food Supplement Co., from Torrance, Calif., to San Antonio, Tex., and subsequently returned to shipper.

LABEL IN PART: "Bal-Nu-Vita Food Supplement Bal-Nu-Pak Natural or Organic Vitamins and Minerals * * * Two Vitamin Tablets and Four Mineral Tablets Daily Will Supply: * * * Vitamin A (From Lemon Grass) 10,000 USP Units * * * Stiles-Van Zandt Food Supplement Co. 2302-04 W. Redondo Beach Blvd. Torrance, California."

RESULTS OF INVESTIGATION: Examination showed that the article contained approximately 60 percent of the declared amount of vitamin A.

*See also Nos. 26301, 26302, 26311, 26326.

LIBELED: 2-9-60, S. Dist. Calif.

CHARGE: 402(b)(1)—when shipped, the valuable constituent, vitamin A, had been in part omitted or abstracted from the article; and 403(a) the label statement "Vitamin A * * * 10,000 USP Units" was false and misleading.

DISPOSITION: 3-2-60. Default—destruction.

26395. Dietetic sirup. (F.D.C. No. 44247. S. No. 42-295 P.)

QUANTITY: 498 cases, 12 12½-oz. btls. each, at Seattle, Wash.

SHIPPED: 12-31-59, from Oakland, Calif., by Shasta Water Co.

LABEL IN PART: (Btl.) "Shasta Dietetic Sugarless Table Syrup Imitation Maple Fortified with Vitamin C Sweetened with Sucaryl Contains: Water, Sorbitol, Sucaryl, Cellulose Gum, Imitation Maple Flavor, Saccharin, Caramel Color, salt, and 1/20 of 1% Benzoate of Soda. Each fluid ounce contains 20 milligrams vitamin C when packed. Contains only 6 calories per teaspoon as carbohydrates. Sucaryl and Saccharin are non-nutritive artificial sweeteners for persons who must restrict their intake of ordinary sweets. * * * Packed by Shasta Water Company, San Francisco, Calif."

LIBELED: 2-17-60, W. Dist Wash.

CHARGE: 403(a)—when shipped, the label statements "Maple Syrup" and "Sugarless Table Syrup" were false and misleading since the article was an imitation maple sirup and since it contained sorbitol, a carbohydrate which was metabolized as sugar; and the label statement "Sweetened with "Sucaryl" was false and misleading since the article was sweetened with sodium cyclohexyl sulfamate, saccharin, and sorbitol; 403(c)—the article was an imitation of another food and its label failed to bear, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated; 403(f)—the statement of ingredients was not prominently placed on the label with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; 403(i)(2)—the article was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient, since "Sucaryl" is not the common or usual name of that ingredient; 403(j)—the article purported to be and was represented as a food for special dietary use in the control of body weight, and its label failed to bear such information concerning its protein, fat, and carbohydrate content as prescribed by regulations as necessary, since its label failed to bear a statement of the percent by weight of protein, fat, and available carbohydrates in such food; and 403(k)—the article contained sodium benzoate, a chemical preservative, and its labeling failed to state the fact that the article contained a chemical preservative.

DISPOSITION: 3-2-60. Consent—claimed by Shasta Water Co., San Francisco, Calif., and relabeled.

26396. Nu-tri Spoon Feeding Mix. (F.D.C. No. 44238. S. No. 35-009 P.)

QUANTITY: 381 25-lb. ctns. at Selinsgrove, Pa.

SHIPPED: 10-16-59, from Suffern, N.Y., by State Products Co.

LABEL IN PART: "State Products, Inc. Nu-Tri Spoon Feeding Prepared Mix The Supplemental Feeding For Everyone A combination of highly nutritious ingredients * * * to supply all nutrients in a balanced diet. Nu-Tri furnishes

the following nutrients: * * * Directions: * * * Ingredients: * * * Packed for State Products Inc., 3 Hartford Street, Atlantic City, N.J."

RESULTS OF INVESTIGATION: Examination showed that the article was in three flavors—spice, banana, and maple—and contained approximately 60 percent of the declared amount of vitamin D in the article of all flavors, approximately 50 percent of the declared amount of vitamin B₁, in the article of spice flavor, approximately 75 percent of the declared amount of vitamin B₁ in the article of banana flavor, and approximately 75 percent of the declared amount of vitamin B₁ in the article of maple flavor.

LIBELED: 2-16-60, M. Dist. Pa.

CHARGE: 402(b) (1)—while held for sale, the valuable constituents, vitamins B₁ and D, had been in whole or in part omitted or abstracted from the article; 403(a)—while held for sale, the label statements "Vitamin D₂ 600 Int. Units * * * Thiamin 2.8 mg." were false and misleading; and 403(a)—when shipped, the label statements pertaining to the content of vitamins and minerals, and other food nutrients in the article when mixed with milk were misleading, since they exaggerated the nutritive properties of the article; and 403(j)—when shipped, the article purported to be and was represented as a food for special dietary purposes for children and adults by reason of its vitamin and mineral content, and its label failed to bear, as required by regulations, a statement of the proportion of the minimum daily requirement for vitamin A, vitamin B₁, vitamin C, vitamin D, riboflavin or niacin or niacinamide, and calcium, phosphorus, iron, or iodine, when consumed in a specified quantity during a period of one day by a child, and a statement of the proportion of the minimum daily requirement for niacin and iodine, when consumed in a specified quantity during a period of one day by an adult.

DISPOSITION: 3-2-60. Consent—claimed by State Products, Inc., and relabeled.

26397. Rice Puffs. (F.D.C. No. 43334. S. Nos. 71-799/800 P.)

QUANTITY: 60 cases, 24 4-oz. pkgs. each, at Tampa, Fla.

SHIPPED: 6-30-59 and 7-4-59, from Clinton, Mass., by Van Brode Milling Co., Inc.

LABEL IN PART: (Pkg.) "Luckies Brand Rice Puffs No Salt Added * * * Van Brode Milling Co., Inc. Clinton, Mass."

LIBELED: 8-3-59, S. Dist. Fla.

CHARGE: 403(j)—when shipped, the article purported to be and was represented as a food for special dietary use by reason of its use as a means of regulating the intake of sodium or salt, and its label failed to bear, as required by regulations, a statement of the number of milligrams of sodium in 100 grams of the food and a statement of the number of milligrams of sodium in an average serving of the food.

DISPOSITION: 11-10-59. Default—destruction.

26398. Vi-Gor Cup Vegetable Concentrate. (F.D.C. No. 43905. S. No. 69-362 P.)

QUANTITY: 118 4-oz. cans of vegetable concentrate of various flavors, indicated by a red stamp on the label and consisting of 47 cans with no flavor base indicated, 8 cans of beef-like flavor, 14 cans of parsley base, 20 cans of celery base, 1 can of chicken-like flavor, 15 cans of carrot flavor, and 13 cans of onion base flavor, at Minneapolis, Minn.

SHIPPED: 5-28-59, from New York, N.Y., by B. G. Freund.

LABEL IN PART: "Body Building Vi-Gor Cup Contains: Brewers' Yeast * * * Wheat Germ * * * the potent heart of wheat * * * Vegetable Concentrate * * * fortified with Pure Vegetable Fat * * * Manufactured for Organic Products, Inc., 615 East 28th St., Minneapolis 7, Minnesota."

LIBELED: 11-13-59, Dist. Minn.

CHARGE: 403(a)—when shipped, the can labels contained false and misleading representations and suggestions that the article was adequate and effective for building a strong, sound body and for producing vigor; and that its wheat germ content would produce healthy nerves, energy, normal growth, and an appetite; 403(i) (2)—the label of the article failed to bear the common or usual name of each ingredient since "Vegetable Fat" is not the common or usual name of the fat ingredient; and 403(j)—the article purported to be and was represented for special dietary use by reason of its vitamin, protein, fat and carbohydrate content, and its label failed to bear, as required by regulations, a statement of the proportion of the minimum daily requirement for vitamin A, vitamin B₁, vitamin C, vitamin D, riboflavin, niacin or niacinamide, and calcium, phosphorus, iron or iodine supplied by a specified quantity of the food when consumed during a period of one day, a statement of the quantity of such vitamins and minerals in a specified quantity of the article, and a statement of the percent by weight of fat and available carbohydrates in the article, and the number of available calories supplied by a specified quantity of the article.

DISPOSITION: 2-3-60. Default—destruction.

MISCELLANEOUS FOODS

26399. Soup mix. (F.D.C. No. 43903. S. No. 64-159 P.)

QUANTITY: 374 cases, 24 pkgs. each, at Boston, Mass.

SHIPPED: 9-8-59, from Long Island City, N.Y., by A. Goodman & Sons, Inc.

LABEL IN PART: (Pkg.) "Net Wt. 2½ Ozs. Goodmans * * * Vegetable Noodle Soup Mix * * * A. Goodman & Sons, Inc., * * * Long Island City, N.Y."

RESULTS OF INVESTIGATION: Examination showed that the article was short weight.

LIBELED: 11-13-59, Dist. Mass.

CHARGE: 403(e) (2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of the contents.

DISPOSITION: 1-14-60. Consent—claimed by A. Goodman & Sons, Inc., and brought into compliance with the law by repacking.

26400. Concentrated soups. (F.D.C. No. 43947. S. Nos. 48-749/53 P.)

QUANTITY: 68 cases of mushroom soup, 67 cases of vegetable soup, 58 cases of celery soup, 72 cases of tomato soup, and 67 cases of chicken soup, at San Francisco, Calif. Each case contained 12 pkgs. of 12 individually wrapped 3½-oz. blocks of concentrated soup.

SHIPPED: During November 1956 and 12-14-56 and 1-10-57, from Leicester, England.

LIBELED: 12-22-59, N. Dist. Calif.

CHARGE: 402(a) (3)—contained insects while held for sale.

DISPOSITION: 12-31-59. Consent—destruction.

INDEX TO NOTICES OF JUDGMENT F.N.J. NOS. 26301 TO 26400

PRODUCTS

	N.J. No.		N.J. No.
Anabolic S-B-G multivitamin tablets-----	26393	Fruits and vegetables----	26344-26369
Apple(s), sliced, dried-----	26350	fruit, canned-----	26344-26348
pomace silage-----	26337	dried-----	26349, 26350
Apricot jam-----	26355	fresh-----	26351-26353
Bakery product-----	26303	frozen-----	26354
Bal-Nu-Vita Food Supplement--	26394	jam-----	26355
Beans, black-eyed, dried. <i>See</i>		tomatoes and tomato products	
Peas, black-eyed, dried.			26264-26369
kidney, red, dried-----	26317	vegetables and vegetable prod-	
lupini, dried-----	26363	ucts-----	26356-26363
navy, dried-----	26317	Grape drink-----	26301, 26302
Beverages and beverage mate-		Jam, apricot-----	26355
rial-----	26301, 26302	Kidney beans, red, dried-----	26317
Bibb lettuce-----	26356, 26357	Lettuce, Bibb-----	26356, 26357
Black-eyed peas, dried-----	26317	Lupini beans, dried-----	26363
Bran-----	26323	Macaroni and noodle products---	
Butter-----	26330-26332		26312-26314
Cake mixes-----	26313	Meat product and poultry- ¹	26370-26372
Candy. <i>See</i> Confectionery.		Mix(es), cake-----	26313
Celery-----	26360	Nu-tri spoon feeding-----	26396
soup, concentrated-----	26400	soup, vegetable-noodle-----	26399
Cereals and cereal products----	26303-	whole wheat-----	26324
	26324	Mushroom soup, concentrated---	26400
Chicken soup, concentrated----	26400	Navy beans, dried-----	26317
Chocolate fudge topping-----	26326	Noodles. <i>See</i> Macaroni and	
powdered-----	26325	noodle products.	
Cinnamon quills-----	26390	Nutmegs-----	26389
Cocoa-----	26325	Nuts-----	26373-26388
expeller cake-----	26327	mixed-----	26385-26387
Corn kernels, white, dried-----	26361	pistachio-----	26388
Cornmeal-----	26304	Nu-tri spoon feeding mix-----	26396
Cottonseed meal-----	26338	Orange drink-----	26301
Cranberries, fresh-----	26351-26353	Oysters-----	26343
Cranberry sauce-----	26344-26348	Peas, black-eyed, dried-----	26317
Dairy products-----	26330-26332	split, green, dried-----	26362
Egg(s), frozen-----	26333, 26334	yellow, dried-----	26362
incubator reject-----	26335, 26336	Pecans, unshelled-----	26373-26381
noodles-----	26313	shelled-----	26383, 26384
Feeds and grains-----	26337, 26338	Peppers, green, canned-----	26359
Fish and shellfish-----	26339-26343	Pistachio nuts-----	26388
Flour-----	26304, 26305-26311, 26323	Popcorn, unpopped-----	26316
enriched-----	26311	Pork, ground, frozen-----	26370
pastry-----	26305	Poultry. <i>See</i> Meat product and	
		poultry.	

¹ (26372) Prosecution contested. Contains opinion of the court.

	N.J. No.		N.J. No.
Prunes, dried_____	26349	Tomato(es), canned_____	26364-26367
Pumpkin, canned_____	26358	catsup_____	26368
Rice_____	26315-26317	puree_____	26368, 26369
Puffs_____	26397	soup, concentrated_____	26400
Rye, Crisp Ryola_____	26303	Turkeys. <i>See</i> Meat product and poultry.	
Ryola Crisp rye_____	26303	Vanilla extract_____	26392
Savory spice_____	26391	Vegetable(s). <i>See</i> Fruits and vegetables.	
Shellfish. <i>See</i> Fish and shellfish.		soup, concentrated_____	26400
Silage, apple pomace_____	26337	Vi-Gor Cup Vegetable Concentrate_____	26398
Sirup, dietetic_____	26395	Vitamin, mineral, and other products of special dietary significance_____	26393-26398
Soup mix, vegetable-noodle_____	26399	Walnuts, unshelled_____	26382
concentrated_____	26400	Wheat_____	26318-26322
Spaghetti. <i>See</i> Macaroni and noodle products.		Whitefish, frozen_____	26339-26342
Spices, flavors, and seasoning materials_____	26389-26392	Whole wheat mix_____	26324
Strawberries, frozen_____	26354		

SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS

	N.J. No.		N.J. No.
A & P, Great, Tea Co. :		Canadian Fish Producers, Ltd. :	
canned tomatoes_____	26365, 26366	frozen whitefish_____	26342
A & R Produce Co. :		Central Milling Co. :	
incubator reject eggs_____	26335	enriched flour_____	26311
Alma Canning Co. :		Chase & Co. :	
dried white corn kernels_____	26361	celery_____	26360
Anabolic Foods, Inc. :		Clark Fisheries :	
anabolic S-B-G tablets (multi-vitamins) _____	26393	frozen whitefish_____	26340
April, Morris, Bros. :		Consolidated Foods Corp. :	
cranberry sauce_____	26344,	cranberry sauce_____	26344,
26345, 26347, 26348		26345, 26347, 26348	
Arkansas Grocer Co. :		Cooperative Fisheries, Ltd. :	
grape drink_____	26302	frozen whitefish_____	26342
Atwood-Larson Co. :		Cooperative Grain & Supply Co. :	
wheat_____	26318	wheat_____	26320
Best Ice & Locker Co., Inc. :		Cranberry Products, Inc. :	
frozen eggs_____	26334	fresh cranberries _____	26353
Beyer Canning Co. :		Davis, J. W., Co. :	
canned tomatoes_____	26364	Bibb lettuce _____	26356, 26357
Booth Fisheries Canadian Co., Ltd. :		Delaware Valley Packing Co. :	
frozen whitefish _____	26341	tomato catsup and tomato puree_____	26368
Campbell Soup Co. :		Dixie Preserves, Ltd. :	
canned spaghetti in tomato sauce _____	26314	apricot jam _____	26355
Camp, Wm. A., Co., Div. of Zaloom, Jos. A. Co., Inc. :		Durkee Famous Foods :	
mixed nuts_____	26385	savory spice_____	26391
		Fairview Packing Co., Inc. :	
		tomato puree_____	26369

	N.J. No.		N.J. No.
Fettig Canning Corp.:		Luzo Grocery Co., Inc.:	
canned tomatoes-----	26365	bran and flour-----	26323
Fredeen, G. M.:		McCarty, L. P.:	
Ryola Crisp rye-----	26303	flour-----	26307
Freund, B. G.:		McCarty & Son:	
Vi-Gor Cup Vegetable Concen-		flour-----	26307
trate-----	26398	Memphis Pecan Co.:	
Friend Grain Co., Inc.:		shelled pecans-----	26383
wheat-----	26319	Modern Egg Products:	
Ghirardelli, D., Co.:		frozen eggs-----	26333
powdered chocolate and cocoa_	26325	National Cranberry Association:	
Goodman, A., & Sons, Inc.:		cranberry sauce-----	26346
soup mix-----	26399	Nechay, George, & Sons:	
Griffin Grocery Co.:		canned green peppers-----	26359
flour-----	26309	North American Creameries:	
Hart Grain Co.:		butter-----	26331
wheat-----	26322	North American Packing Corp.:	
Hudson-Duncan & Co.:		frozen ground pork-----	26370
dried prunes-----	26349	North Georgia Co-op:	
Hudson House, Inc.:		frozen eggs-----	26334
dried prunes-----	26349	Organic Products, Inc.:	
Howeth, C. W.:		Vi-Gor Cup Vegetable Concen-	
oysters-----	26343	trate-----	26398
Howeth, Chas. W., & Bro. <i>See</i>		Owatonna Canning Co.:	
Howeth, C. W.		canned pumpkin-----	26358
Independent Grocers' Alliance		Pappas, C., Co., Inc.:	
Distributing Co.:		dried lupini beans-----	26363
canned pumpkin-----	26358	Park Co., David. <i>See</i> Park,	
Indian Trail, Inc.:		D. J. M.	
fresh cranberries-----	26351, 26352	Park, D. J. M.:	
Jopling-Eason Wholesale Grocer		butter-----	26330
Co.:		Penobscot Poultry Co.:	
cornmeal and flour-----	26304	dressed turkeys----- ¹	26372
Jus-Made, Inc.:		Pierce, Sam A., Inc.:	
orange drink and grape drink_	26301	unshelled pecans-----	26379
King's Creek Canning Co.:		Rose Mill, Inc.:	
canned tomatoes-----	26366	whole wheat mix-----	26324
Klenn, Wendell:		Rudolf, L., & Co.:	
cottonseed meal-----	26338	frozen eggs-----	26333
Kozloff, J., Fish Co.:		Ryola Co.:	
frozen whitefish-----	26340	Ryola Crisp rye-----	26303
La Tosca Products Co.:		Savitz, A. I.:	
tomato puree-----	26369	dressed turkeys----- ¹	26372
Lebo Grain Co.:		Seaway Wholesale Grocery Co.:	
wheat-----	26321	rice, poppyseed, dried red kid-	
Lincoln Foods, Inc.:		ney beans, dried black-eyed	
chocolate fudge topping-----	26326	peas, and dried navy beans--	26317
Luso-American Macaroni Mfg.		Segal, H., & Co.:	
Co., Inc.:		candy-----	26328
elbow macaroni-----	26312		

¹(26372) Prosecution contested. Contains opinion of the court.

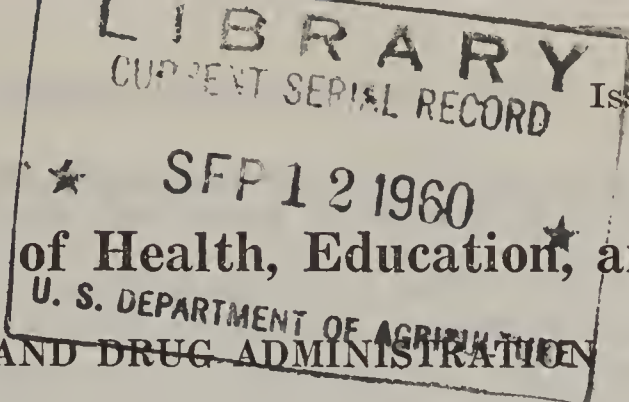
	N.J. No.		N.J. No.
Segal, Louis, Candy Co.:		State Products Co.:	
candy-----	26328	Nu-tri spoon feeding mix-----	26396
Segal, M. H.:		Stiles-Van Zandt Food Supple-	
candy-----	26328	ment Co.:	
Shasta Water Co.:		Bal-Nu-Vita food supplement_	26394
dietetic sirup-----	26395	Stockton Roller Mill Co.:	
Shenandoah Valley Apple Cider		flour-----	26306
& Vinegar Co.:		Technical Egg Products, Inc.:	
apple pomace silage-----	26337	incubator reject eggs-----	26336
Sifers Valomilk Confection Co.:		Thomas, Geo. H., Inc.:	
candy bars-----	26329	canned tomatoes-----	26364
Sisk, A. W., & Son:		Three V Medical Co.:	
canned tomatoes-----	26367	vanilla extract-----	26392
Southern Cotton Oil Div., Wes-		Tomales Bay Creamery:	
son Oil & Snowdrift Co.,		butter-----	26332
Inc.:		Valley Crest Farms Co.:	
cottonseed meal-----	26338	chocolate fudge topping-----	26326
Standard Wholesale Grocery		Van Brode Milling Co., Inc.:	
Co.:		Rice Puffs-----	26397
enriched flour-----	26311	Zaloom, Jos. A., & Co. <i>See</i>	
		Camp, Wm. A., Co.	

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U.S. Department of Health, Education, and Welfare

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

26401-26450

FOODS

The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were adulterated or misbranded within the meaning of the Act when introduced into and while in interstate commerce, or while held for sale after shipment in interstate commerce. These cases involve (1) seizure proceedings in which decrees of condemnation were entered by default or by consent, and (2) criminal proceedings which were terminated upon pleas of guilty or nolo contendere. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the criminal proceedings are against the *firms* or *individuals* charged to be responsible for violations.

Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D.C., *August 11, 1960.*

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**SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN VIOLATIONS
REPORTED IN F.N.J. NOS. 26401-26450**

Adulteration, Section 402(a) (2), the article, in four cases, contained an added poisonous or deleterious substance which was unsafe within the meaning of Section 406; and, in two cases, the article was a raw agricultural commodity, and contained a pesticide chemical which was unsafe within the meaning of Section 408(a); Section 402(a) (3), the article consisted in part of a filthy or decomposed substance, or was otherwise unfit for food; Section 402(a) (4), the article had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth; Section 402(b) (1), a valuable constituent had been in whole or in part omitted or abstracted from the article; Section 402(b) (2), a substance had been substituted in whole or in part for the article; Section 402(b) (4), a substance had been added to the article, or mixed or packed therewith so as to make it appear better or of greater value than it was.

Misbranding, Section 403(a), the label of the article was false and misleading; Section 403(e) (2), the article was in package form, and it failed to bear a label containing an accurate statement of the quantity of contents; Section 403(g) (1), the article purported to be and was represented as a food for which a definition and standard of identity had been prescribed by regulations, and it failed to conform to such definition and standard; Section 403(j), the article purported to be and was represented for special dietary uses, and its label failed to bear such information concerning its vitamin properties as the Secretary has determined to be, and by regulations prescribed as, necessary in order fully to inform purchasers as to its value for such uses.

CEREALS AND CEREAL PRODUCTS

BAKERY PRODUCTS

26401. Italian bread and pumpernickel bread. (F.D.C. No. 43096. S. Nos. 32-968 P, 32-971 P.)

INFORMATION FILED: 11-23-59, S. Dist. N.Y., against West Side Bakery, a partnership, New Rochelle, N.Y., and Pasquale Cassone, a partner in the partnership.

SHIPPED: Between 11-12-58 and 11-14-58, from New York to Connecticut.

CHARGE: 402(a) (3)—contained insect fragments; and 402(a) (4)—prepared and packed under insanitary conditions.

DISPOSITION: A motion was filed on behalf of the partnership for dismissal of the information against it. On 3-8-60, the court handed down the following opinion in denial of the motion:

Cashin, District Judge: "This is a motion by the defendant, West Side Bakery, under Rule 12(b) of the Federal Rules of Criminal Procedure, to dismiss the information as to it for failure to charge an offense.

"The moving defendant, a partnership, and one of the partners, are charged in a three count information with introducing into interstate commerce adulterated bread, in violation of § 331(a) of Title 21 U.S.C. Section 333(a) of the same Title provides for punishment by fine and imprisonment of 'any person who violates any of the provisions of Section 331 * * *'. Section 321(e) of Title 21 provides that for the purposes of that chapter 'The term "person" includes individual, partnership, corporation and association'. Despite what would appear to be very clear wording, defendant, nevertheless, argues that a partnership was not intended by Congress to be subject to criminal liability.

"Whatever doubt there might have been that any entity but a natural person or a corporation should be subject to criminal sanction was laid to rest by the Supreme Court of the United States in *United States v. Adams Express Co.* (1913) 229 U.S. 381, wherein a joint stock association was held so liable. That a partnership can also be so liable is established definitively in the recent case of *United States v. A & P Trucking Co.* (1958) 358 U.S. 121.

"Thus, the only question remaining is whether Congress, when enacting the punitive provision of Title 21 quoted above, intended to impose criminal liability on a partnership. While there appear to be no cases passing on this precise point, it would seem clear that Congress did intend to impose criminal liability.

"As noted above, the wording of the statute is very clear. Any lingering doubt can be laid to rest by a perusal of *United States v. A & P Trucking Co.*, supra. That case considered the criminal liability of a partnership under § 222(a) of the Motor Carrier Act of 1935 (49 U.S.C. § 322(a)) and 18 U.S.C. § 835. A unanimous court experienced no difficulty whatsoever in finding that the section of the Motor Carrier Act, which provided criminal sanction, applies to partnerships. In fact, in footnote 3 of the opinion, at page 124, although Title 21 was not specifically mentioned, it was indicated that partnerships should always be included under a definition of 'persons' in regulatory Acts. The only difficulty which the dissenting judges found was in including the term 'partnership' within the purview of the term 'whoever' as used in Section 835 of Title 18.

"Under these circumstances there is no doubt that the information charges an offense in each of the three counts.

"The motion is, therefore, denied.

"It is so ordered."

On 3-14-60, upon pleas of guilty entered by the partnership and the individual, the court fined the partnership \$200 and the individual \$200. The court also imposed a sentence upon the individual of 30 days in jail, which sentence was suspended, and placed the individual on probation for 1 day.

26402. Bread. (F.D.C. No. 43692. S. Nos. 83-147/8 P.)

INFORMATION FILED: 1-4-60, W. Dist. Mo., against Manuel M. Becker, partner and manager in the partnership of New York Bakery, Kansas City, Mo.

SHIPPED: 9-1-59, from Missouri to Kansas.

LABEL IN PART: "NEW YORK Kansas City's Finest Bakery PUMPER-NICKLE [or "RYE"] Net Weight 1 lb. 4 oz."

CHARGE: 402(a)(3)—contained insect parts, insect fragments, and rodent hairs; and 402(a)(4)—prepared under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 2-5-60. \$500 fine, plus costs, and probation for 1 year.

26403. Bread. (F.D.C. No. 43664. S. Nos. 47-442 P, 63-664/5 P.)

INFORMATION FILED: 12-4-59, Dist. Mass., against George H. Cherabie, t/a George's Bakery, Lawrence, Mass.

SHIPPED: Between 10-23-58 and 5-26-59, from Massachusetts to New Hampshire and Vermont.

LABEL IN PART: (On pkg. of bread) "GEORGE'S All Purpose Lebanese and Syrian Bread."

CHARGE: 402(a)(3)—contained insects and insect parts; and 402(a)(4)—prepared under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 2-15-60. \$200 fine, and probation for 1 year.

26404. Bread. (F.D.C. No. 43680. S. Nos. 63-789/92 P.)

INFORMATION FILED: 12-4-59, Dist. Mass., against the Lithuanian Corp. Bakery, Inc., Lawrence, Mass., and John Kerry, president and treasurer of the corporation.

SHIPPED: Between 6-8-59 and 6-10-59, from Massachusetts to New Hampshire.

LABEL IN PART: (Pkg.) "Light [or "Dark"] Rye * * * Lithuanian Corp. Bakery."

CHARGE: 402(a)(3)—contained rodent hair fragments and insect parts; and 402(a)(4)—prepared under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 4-18-60. Corporation—\$300 fine; individual—probation for 1 year.

FLOUR**26405. Flour.** (F.D.C. No. 43712. S. Nos. 60-625 P, 60-652/3 P.)

INFORMATION FILED: 2-17-60, Dist. Mont., against Viva Stone Flour Mills, Inc., Lewistown, Mont.

SHIPPED: Between 3-31-59 and 6-2-59, from Montana to Washington.

LABEL IN PART: (Pkg.) "VIVA Whole Wheat Stone Ground Flour Net Wt. 100 Lbs. VIVA-STONE Flour Mills, Inc. Lewistown, Montana" and "100 Lbs. Net Sapphire Stone Ground Whole Wheat Flour Manufactured for Montana Flour Mills Company Great Falls, Montana."

CHARGE: 402(a)(3)—contained insects, insect fragments, and rodent hairs; and 402(a)(4)—prepared and packed under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 3-8-60. The defendant was fined \$100 on count 1 of the information, and \$250 on each of the remaining 2 counts, with the fines on such remaining counts being suspended and the defendant being placed on probation for 1 year.

26406. Flour. (F.D.C. No. 44357. S. Nos. 99-628/30 P.)

QUANTITY: 101 50-lb. bags and 184 25-lb. bags at Helena, Ark., in possession of Helena Wholesale, Inc.

SHIPPED: Between 10-8-59 and 1-4-60, from Arkansas City, Kans.

LIBELED: 3-1-60, E. Dist. Ark.

CHARGE: 402(a)(3)—contained rodent urine and rodent excreta; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 4-12-60. Default—delivered to a public institution for use as animal feed.

26407. Flour and sesame seed. (F.D.C. No. 43562. S. Nos. 64-305/9 P.)

QUANTITY: 18 100-lb. bags of flour and 2 100-lb. bags of sesame seed, at Cambridge, Mass.

SHIPPED: Between 4-15-59 and 7-24-59, from Buffalo and New York, N.Y.

LIBELED: 9-28-59, Dist. Mass.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 4-12-60. Default—delivered to a public institution for use as animal feed.

26408. Flour and rice. (F.D.C. No. 44232. S. Nos. 87-354/7 P.)

QUANTITY: 17 10-lb. bags, 79 25-lb. bags, and 61 50-lb. bags of flour, and 6 cases, 12 3-lb. boxes each, of rice, at Wadesboro, N.C., in possession of Allen Bennett Co., Inc.

SHIPPED: Between 4-15-59 and 11-18-59, from Hays, Kans., and Stuttgart, Ark.

LIBELED: 2-11-60, W. Dist. N.C.

CHARGE: 402(a) (3)—flour contained rodent urine and rice contained insects; 402(a) (4)—held under insanitary conditions.

DISPOSITION: 4-11-60. Default—destruction.

26409. Flour, oleomargarine, and dried pinto beans. (F.D.C. No. 43251. S. Nos. 49-964/5 P, 50-119/20 P.)

INFORMATION FILED: 10-10-59, E. Dist. Ky., against Laurel Grocery Co., a partnership, East Bernstadt, Ky., and William J. Chestnut, and George W. Griffin, Jr., partners in the partnership.

ALLEGED VIOLATION: Between 1-9-59 and 6-25-59, while quantities of flour, oleomargarine, and dried pinto beans were being held for sale after shipment in interstate commerce, the defendants caused the articles to be held in a building that was accessible to rodents and birds, and to be exposed to contamination by rodents and birds, which acts resulted in the articles being adulterated.

CHARGE: 402(a) (3)—contained rodent excreta, rodent urine, and rodent hairs; and 402(a) (4)—held under insanitary conditions.

PLEA: Guilty by each defendant.

DISPOSITION: 4-11-60. \$400 fine against the defendants jointly.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS

26410. Rice. (F.D.C. No. 43537. S. No. 72-963 P.)

QUANTITY: 125 100-lb. bags at Bronx, N.Y., in possession of T. J. Krikorian & Son, Inc.

SHIPPED: 4-2-59, from Stuttgart, Ark.

LIBELED: 10-7-59, S. Dist. N.Y.

CHARGE: 402(a) (3)—contained rodent urine; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 11-13-59 and 12-2-59. Consent—claimed by T. J. Krikorian & Son, Inc., and reconditioned by cleaning.

26411. Rice and cornmeal. (F.D.C. No. 43247. S. Nos. 1-391 P, 1-810/11 P, 44-007 P, 44-010 P, 44-068 P, 56-348/50 P.)

INFORMATION FILED: 10-13-59, S. Dist. Ga., against Alexander Grocery Co., Inc., Savannah, Ga., and Wallace T. Brown, president.

ALLEGED VIOLATION: Between 12-20-57 and 4-16-59, while quantities of rice and cornmeal were being held for sale after shipment in interstate commerce, the defendants caused the articles to be held in a building that was accessible to rodents, birds, and insects, and to be exposed to contamination by rodents, birds, and insects, which acts resulted in the articles being adulterated.

CHARGE: 402(a) (3)—the articles contained rodent excreta, rodent urine, rodent hairs, and bird excreta; and 402(a) (4)—held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 3-14-60. Each defendant placed on probation for 5 years.

26412. Rice. (F.D.C. No. 44049. S. No. 92-032 P.)

QUANTITY: 10 100-lb. bags at Salt Lake City, Utah, in possession of Utah Wholesale Grocery Co.

SHIPPED: 9-30-59, from De Witt, Ark.

LIBELED: 2-2-60, Dist. Utah.

CHARGE: 402(a) (2)—while held for sale, the article was a raw agricultural commodity and contained an added poisonous and deleterious substance, namely, DDT, which was unsafe within the meaning of 408 since no tolerance or exemption from the requirement of a tolerance for DDT on rice has been prescribed by regulations; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 4-22-60. Default—destruction.

26413. Wheat. (F.D.C. No. 43478. S. No. 76-643 P.)

QUANTITY: 110,270 lbs. at Spokane, Wash.

SHIPPED: 9-28-59, from Kalispell, Mont., by Kalispell Feed Grain Co.

LIBELED: 10-16-59, E. Dist. Wash.

CHARGE: 402(a) (2)—when shipped, the article was a raw agricultural commodity and it contained a pesticide chemical, namely, a mercurial compound, which is unsafe within the meaning of 408 since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat has been prescribed by regulations.

DISPOSITION: 11-3-59. Consent—claimed by Kalispell Feed Grain Co. Segregated; 5,950 lbs. found unfit.

26414. Wheat. (F.D.C. No. 44111. S. No. 40-785 R.)

QUANTITY: 68,640 lbs. at Baton Rouge, La.

SHIPPED: 3-25-60, from East St. Louis, Ill., by Cargill, Inc.

LIBELED: 3-31-60, E. Dist. La.

CHARGE: 402(a) (3)—contained rodent excreta pellets when shipped.

DISPOSITION: 4-29-60. Consent—claimed by Cargill, Inc., and converted into poultry feed.

26415. Wheat. (F.D.C. No. 44119. S. No. 20-580 R.)

QUANTITY: 120,800 lbs. at Maumee, Ohio.

SHIPPED: 3-31-60, from Auburn, Mich., by Frutchey Bean Co.

LIBELED: 4-11-60, N. Dist. Ohio.

CHARGE: 402(a) (3)—contained rodent excreta pellets when shipped.

DISPOSITION: 4-25-60. Consent—claimed by Frutchey Bean Co., and converted into animal feed.

26416. Blueberry pancake mix. (F.D.C. No. 43133. S. No. 48-208 P.)

QUANTITY: 79 cases, 24 8-oz. pkgs. each, at Brighton, Mass.

SHIPPED: 4-8-59, from Newark, N.J., by Duff Baking Mix Corp.

LABEL IN PART: (Pkg.) "Duff's Blueberry Pancake Mix * * * Duff Baking Mix Corporation, Newark, N.J. * * * Blueberry French Pancakes * * * Blueberry Muffins * * * Contains: Wheat and Corn Flours, Stabilized Blueberries."

LIBELED: 4-29-59, Dist. Mass.

CHARGE: 402(b)(2)—when shipped, purple pellets, consisting chiefly of sugar, gum acacia, citric acid, starch, artificial color, artificial flavor, and blueberry pulp, had been substituted in whole or in part for blueberries; 402(b)(4)—purple pellets, consisting chiefly of sugar, gum acacia, citric acid, starch, artificial color, artificial flavor, and blueberry pulp, had been added to the article, or mixed or packed therewith, so as to make it appear better or of greater value than it was; and 403(a)—the label statements “Blueberry Pancake Mix * * * Blueberry French Pancakes * * * Blueberry Muffins * * * Stabilized Blueberries * * *,” and vignette displaying pancakes appearing to contain blueberries, were false and misleading.

DISPOSITION: 6-26-59. The Duff Baking Mix Corp., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law. Following the release of the product to the claimant the product was destroyed.

DAIRY PRODUCTS

BUTTER

26417. Butter. (F.D.C. No. 43507. S. Nos. 75-568 P, 78-899 P, 78-900 P.)

QUANTITY: 550 cases, 32 1-lb. boxes each, at Cleveland, Ohio.

SHIPPED: 9-3-59, from Chicago, Ill., by Berkshire Foods, Inc.

LABEL IN PART: “Fairmont Better Brand Butter * * * Fairmont Foods Company Distributors—General Offices, Omaha, Nebraska,” or “Sweet Clover Brand Butter * * * Packed by Fairmont Foods Company, General Offices, Omaha, Neb.”

RESULTS OF INVESTIGATION: Examination showed that the article was made from decomposed cream.

LIBELED: 9-11-59, N. Dist. Ohio.

CHARGE: 402(a)(3)—contained a decomposed substance when shipped.

DISPOSITION: 9-11-59. Consent—claimed by Berkshire Foods, Inc., and converted into butter oil.

CHEESE

26418. Cheddar cheese. (F.D.C. No. 44379. S. Nos. 97-270/1 P, 97-276 P.)

QUANTITY: 758 ctns., 12 1½-lb. horns each, and 158 ctns., 4 horns each, at Chicago, Ill.

SHIPPED: Between 1-18-60 and 2-4-60, from Marathon, Wis., by Marathon Cheese Co., Inc.

LABEL IN PART: “4 Longhorn 9231 Made From Pasteurized Milk Wisconsin State Brand 111 Cheddar Cheese Wisconsin Jan. 11, 1960 (or other dates) Net Wt. 55¾,” and “Wisconsin State Brand 111 Midget Longhorn Style Cheddar Cheese Made from Pasteurized Milk Kraft Foods Division.”

RESULTS OF INVESTIGATION: Examination showed that the article failed to meet the definition and standard of identity for cheddar cheese since the milk used was not pasteurized, and the cheese so made had not been cured at a temperature of 35 degrees fahrenheit for a period of 60 days.

LIBELED: 3-21-60, N. Dist. Ill.

CHARGE: 403(a)—when shipped, the label statement “Made from pasteurized milk” was false and misleading; and 403(g) (1)—the article failed to conform to the definition and standard of identity for cheddar cheese.

DISPOSITION: 4-14-60. Consent—claimed by Marathon Cheese Co., Inc., and relabeled.

EGGS

26419. Frozen eggs. (F.D.C. No. 44425. S. No. 32-521 R.)

QUANTITY: 25 30-lb. cans at Brooklyn, N.Y.

SHIPPED: The article was shipped in the form of shell eggs from Clinton, N.J., between 12-29-59 and 1-7-60.

LIBELED: 4-14-60, E. Dist. N.Y.

CHARGE: 402(a) (3)—contained decomposed eggs while held for sale.

DISPOSITION: 5-11-60. Default—destruction.

26420. Frozen eggs. (F.D.C. No. 43217. S. No. 32-201 P.)

INFORMATION FILED: 9-18-59, S. Dist. Fla., against Dexter Bishop Co., Inc., t/a Arthur Redmond Co., Miami, Fla., and Arthur Redmond, plant manager.

SHIPPED: 9-27-58, from Florida to New York.

LABEL IN PART: (Can) “30 Lbs. Net K I R T E X Whole Eggs, Yolks, Stabilizing Syrup Maltose, Dextrine Dextrose and Water * * * ARTHUR REDMOND COMPANY Div of Dexter Bishop Co. Inc. New York, N.Y.”

CHARGE: 402(a) (3)—contained decomposed eggs.

DISPOSITION: A motion for a Bill of Particulars was filed by the defendants and was in part allowed by the court. Thereafter, the defendants entered pleas of guilty and on 3-14-60, the court fined the corporation \$1,000 and the individual \$500.

26421. Incubator reject eggs. (F.D.C. No. 44368. S. No. 20-404 R.)

QUANTITY: 1 truckload in transit near Middlebury, Ind.

SHIPPED: On or about 3-7-60, from Zeeland, Mich., by Elmer Vanderkolk.

LIBELED: 3-7-60, N. Dist. Ind.

CHARGE: 402(a) (3)—contained decomposed eggs and was otherwise unfit for food when shipped.

DISPOSITION: 4-20-60. Default—destruction.

FRUITS AND VEGETABLES

CANNED FRUIT

26422. Jellied cranberry sauce. (F.D.C. No. 44019. S. Nos. 72-263 P, 72-268 P.)

QUANTITY: 20 cases, 24 1-lb. cans each, at Greensboro, N.C.

SHIPPED: 10-15-59, from Bridgeton, N.J., by Morris April Bros.

LABEL IN PART: (Case) “April Orchards Cranberry Sauce [or “Strained Cranberry Sauce”] Packed by Morris April Brothers, Bridgeton, New Jersey.”

LIBELED: 1-5-60, M. Dist. N.C.

CHARGE: 402(a) (2)—when shipped, the article contained an added poisonous and deleterious substance, namely, aminotriazole, which is unsafe within the meaning of 406 since this substance is not required in the production of this food and can be avoided by good manufacturing practice.

DISPOSITION: 1-29-60. Default—destruction.

26423. Jellyed cranberry sauce. (F.D.C. No. 43987. S. No. 86-345 P.)

QUANTITY: 14 cases, 24 1-lb. cans each, at Yorkville, N.Y.

SHIPPED: 10-6-59, from Bridgeton, N.J., by Morris April Bros.

LABEL IN PART: (Can) "Royal Scarlet Jellyed Cranberry Sauce Distributors R. C. Williams & Co., Inc., New York, N.Y."

LIBELED: 12-14-59, N. Dist. N.Y.

CHARGE: 402(a)(2)—when shipped, the article contained an added poisonous and deleterious substance, namely, aminotriazole, which is unsafe within the meaning of 406 since such substance is not required in the production of the article and can be avoided by good manufacturing practice.

DISPOSITION: 1-12-60. Default—destruction.

26424. Whole cranberry sauce. (F.D.C. No. 43810. S. No. 80-061 P.)

QUANTITY: 29 cases, 24 1-lb. cans each, at Detroit, Mich.

SHIPPED: 10-20-58, from Bridgeton, N.J., by Morris April Bros.

LABEL IN PART: (Can) "Grosse Pointe Quality Whole Cranberry Sauce, Grosse Pointe Quality Food Co."

LIBELED: 11-18-59, E. Dist. Mich.

CHARGE: 402(a)(2)—when shipped, the article contained an added poisonous and deleterious substance, aminotriazole, which is unsafe within the meaning of 406 since this substance is not required in the production of this food and can be avoided by good manufacturing practice.

DISPOSITION: 1-12-60. Default—destruction.

FRESH FRUIT**26425. Fresh cranberries.** (F.D.C. No. 43808. S. No. 77-030 P.)

QUANTITY: 10 cases, 24 1-lb. bags each, at Portland, Oreg.

SHIPPED: 10-15-59, from Markham, Wash., by the National Cranberry Association.

LABEL IN PART: (Bag) "Ocean Spray Fresh Cranberries."

LIBELED: 11-18-59, Dist. Oreg.

CHARGE: 402(a)(2)—the article was a raw agricultural commodity, and when shipped, it contained a pesticide chemical, namely, aminotriazole, which is unsafe within the meaning of 408 since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on cranberries has been prescribed by regulations.

DISPOSITION: 2-12-60. Default—destruction.

FROZEN FRUIT**26426. Frozen strawberries.** (F.D.C. No. 43824. S. No. 74-116 P.)

QUANTITY: 180 cases, 24 pkgs. each, at Fort Worth, Tex.

SHIPPED: 7-28-59, from Prairie Grove, Ark., by Kelly Canning Co.

LABEL IN PART: (Pkg.) "Ozark Queen Fresh Frozen Strawberries * * * Packed by D & O Food Products, Inc., Carthage, Missouri, Net Weight 1 Pound."

RESULTS OF INVESTIGATION: Examination showed the article to be short weight.

LIBELED: 12-2-59, N. Dist. Tex.

CHARGE: 402(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 3-14-60. Consent—claimed by Kelly Canning Co., and re-labeled.

MISCELLANEOUS FRUIT PRODUCTS

26427. Apricot pulp. (F.D.C. No. 43646. S. Nos. 63-839/40 P.)

QUANTITY: 263 cases, 6 10-lb. cans each, and 91 cases, 6 10-lb. cans each, at Greenville, N.H.

SHIPPED: Prior to 7-1-59, from outside the United States.

LIBELED: 11-12-59, Dist. N.H.

CHARGE: 402(a)(3)—contained a decomposed substance while held for sale.

DISPOSITION: 4-19-60. Default—destruction.

26428. Grape pulp. (F.D.C. No. 43878. S. No. 82-825 P.)

QUANTITY: 200 5-gal. cans at Muskogee, Okla.

SHIPPED: 10-14-59, from Westfield, N.Y., by Westfield Food Products, Inc.

LABEL IN PART: "Grape Pulp * * * Packed by Westfield Food Products, Inc. Westfield, New York."

LIBELED: 12-8-59, E. Dist. Okla.

CHARGE: 402(a)(3)—contained fly eggs, fly fragments, and maggots when shipped.

DISPOSITION: 1-8-60. Consent—destruction.

26429. Grape pulp. (F.D.C. No. 44213. S. No. 72-272 P.)

QUANTITY: 295 5-gal. cans at Atlanta, Ga.

SHIPPED: 12-2-59, from Westfield, N.Y., by Westfield Food Products, Inc.

LABEL IN PART: "Grape Pulp * * * Westfield Food Products, Inc., Westfield, N.Y."

LIBELED: 1-29-60, N. Dist, Ga.

CHARGE: 402(a)(3)—contained fly eggs, fly fragments, fly pupa, fly pupa fragments, and maggots when shipped.

DISPOSITION: 3-7-60. Default—destruction.

VEGETABLES AND VEGETABLE PRODUCTS*

26430. Canned carrots. (F.D.C. No. 43908. S. No. 73-403 P.)

QUANTITY: 199 cases, 24 12-oz. cans each, at Carlstadt, N.J.

SHIPPED: 9-12-59, from Green Bay, Wis.

RESULTS OF INVESTIGATION: Examination showed that the article was undergoing progressive decomposition.

LIBELED: 11-12-59, Dist. N.J.

CHARGE: 402(a)(3)—contained a decomposed substance while held for sale.

DISPOSITION: 12-14-59. Default—destruction.

26431. Cauliflower in brine. (F.D.C. No. 43976. S. No. 64-357 P.)

QUANTITY: 10,000 lbs. at Old Saybrook, Conn.

SHIPPED: November 1958, from Setauket, N.Y.

LIBELED: 12-29-59, Dist. Conn.

CHARGE: 402(a)(3)—contained insects and insect parts while held for sale.

DISPOSITION: 3-23-60. Default—destruction.

*See also No. 26409.

26432. Onions in vinegar brine. (F.D.C. No. 43809. S. No. 48-913 P.)

QUANTITY: 2 bbls. at Watsonville, Calif., in possession of Monterey Beach Packing Co.

SHIPPED: On an unknown date, from Holland.

LIBELED: 11-23-59, N. Dist. Calif.

CHARGE: 402(a)(3)—contained *Drosophila* flies; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 12-18-59. Default—destruction.

26433. Pickled mixed vegetables. (F.D.C. No. 44374. S. No. 11-562 R.)

QUANTITY: 181 cases, 4 1-gal. jars each, at Chicago, Ill.

SHIPPED: 10-19-59 and 12-4-59, from Richmond, Calif. by the Giambanco Wine Vinegar Plant.

LABEL IN PART: (Jar) "Sexton * * * Imported Italian & Domestic Pickled Mixed Vegetables Distributed by John Sexton & Co. * * * Chicago, Ill."

RESULTS OF INVESTIGATION: The article was manufactured by the Giambanco Wine Vinegar Plant, Oakdale, Calif.

LIBELED: 3-14-60, N. Dist. Ill.

CHARGE: 402(a)(3)—contained insects and insect parts when shipped.

DISPOSITION: 4-19-60. Default—destruction.

26434. Pickled mixed vegetables. (F.D.C. No. 44065. S. No. 86-476 P.)

QUANTITY: 39 cases, 4 1-gal. jars each, at McKees Rocks, Pa.

SHIPPED: 9-26-59, from Richmond, Calif., by the Giambanco Wine Vinegar Plant.

LABEL IN PART: (Jar) "Sexton * * * Imported Italian & Domestic Pickled Mixed Vegetables * * * Distributed by John Sexton & Co. * * * Chicago, Ill."

RESULTS OF INVESTIGATION: The article was manufactured by the Giambanco Wine Vinegar Plant, Oakdale, Calif.

LIBELED: 2-12-60, W. Dist. Pa.

CHARGE: 402(a)(3)—contained *Drosophila* flies, fly fragments, fly eggs, and maggots when shipped.

DISPOSITION: 4-19-60. Default—destruction.

26435. Pickled mixed vegetables. (F.D.C. No. 43984. S. No. 88-303 P.)

QUANTITY: 44 cases, 4 1-gal. jars each, at Indianapolis, Ind.

SHIPPED: 10-16-59, from Richmond, Calif. by the Giambanco Wine Vinegar Plant.

LABEL IN PART: (Case) "Sexton * * * Imported Italian and Domestic Pickled Mixed Vegetables * * * John Sexton & Co. * * * Chicago, Ill."

RESULTS OF INVESTIGATION: The article was manufactured by the Giambanco Wine Vinegar Plant, Oakdale, Calif.

LIBELED: 1-13-60, S. Dist. Ind.

CHARGE: 402(a)(3)—contained *Drosophila* flies and fly fragments when shipped.

DISPOSITION: 2-23-60. Default—destruction.

NUTS

26436. Shelled Spanish peanuts. (F.D.C. No. 43472. S. Nos. 55-327 P, 83-131 P.)

QUANTITY: 100 120-lb. bags at Kansas City, Mo.

SHIPPED: 9-5-59, from San Antonio, Tex., by Bain Peanut Co.

LABEL IN PART: "Bain Peanut Co. of San Antonio, Tex. Little One Spanish Shelled Peanuts."

LIBELED: 10-9-59, W. Dist. Mo.

CHARGE: 402(a)(3)—contained insects and insect larvae when shipped.

DISPOSITION: 11-17-59. Consent—claimed by Bain Peanut Co. and denatured for use as seed peanuts.

26437. Shelled peanuts. (F.D.C. No. 43449. S. No. 83-121 P.)

QUANTITY: 35 120-lb. bags at Kansas City, Mo.

SHIPPED: 8-25-59, from Houston, Tex.

LIBELED: 9-17-59, W. Dist. Mo.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 11-16-59. Consent—claimed by Hou-Tex Peanut Co., Houston, Tex., and denatured for use as seed peanuts.

26438. Shelled pecans. (F.D.C. No. 44092. S. No. 86-703 P.)

QUANTITY: 6 30-lb. ctns. at Pittsburgh, Pa.

SHIPPED: 12-31-59, from Orangeburg, S.C., by Orangeburg Pecan Co.

LABEL IN PART: "Pecan Nut Meats * * * Medium Pieces * * * Orangeburg Pecan Co., Orangeburg, S.C."

LIBELED: 3-16-60, W. Dist. Pa.

CHARGE: 402(a)(3)—contained *E. coli*; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 4-20-60. Default—delivered to a public institution for use as animal feed.

26439. Unshelled pecans (7 seizure actions). (F.D.C. Nos. 43854, 43855, 43856, 43861, 43870, 43880, 43988. S. Nos. 36-558 P, 75-593/5 P, 75-717/8 P, 75-833 P, 75-836/7 P, 75-849 P, 75-930 P.)

QUANTITY: 467 cases, 24 1-lb. bags each, and 124 50-lb. bags, at St. Louis, Mo.

SHIPPED: Between 11-3-59 and 12-2-59, from Fairhope, Ala., and Nashville, and East St. Louis, Ill.

LIBELED: Between 12-2-59 and 12-14-59, E. Dist. Mo.

CHARGE: 402(a)(3)—contained insects and moldy, decomposed, rancid, and shriveled nuts, and empty shells while held for sale.

DISPOSITION: 1-15-60. Raymond A. Pitchford, Nashville, Ill., claimant, having consented to the entry of a decree and the seizure actions having been consolidated, judgment of condemnation was entered, and the nuts were released under bond to be brought into compliance with the law. The nuts were shelled and examined with the result that 1,012 lbs. of nut meats were destroyed as unfit.

26440. Shelled peanuts, unshelled peanuts, and dried split peas. (F.D.C. No. 43677. S. Nos. 24-354/6 P, 52-786 P.)

INFORMATION FILED: 12-7-59, S. Dist. Calif., against Overland Terminal Warehouse Co., a corporation, Los Angeles, Calif.

ALLEGED VIOLATION: Between 4-27-58 and 12-1-58, while quantities of peanuts and split peas were being held for sale after shipment in interstate commerce, the defendant caused the articles to be held in a building accessible to rodents and to be exposed to contamination by rodents which acts resulted in the articles being adulterated.

CHARGE: 402(a) (3)—contained a filthy substance; and 402(a) (4)—held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 2-2-60. Fine of \$2,000.

26441. Shelled walnuts. (F.D.C. No. 43826. S. No. 69-392 P.)

QUANTITY: 25 25-lb. ctns. at Newport, Minn.

SHIPPED: 10-14-59, from San Jose, Calif.

LIBELED: 11-25-59, Dist. Minn.

CHARGE: 402(a) (3)—contained insects while held for sale.

DISPOSITION: 1-15-60. Consent—claimed by Santa Clara Nut Co., San Jose, Calif. Segregated; 25 lbs. denatured.

26442. Shelled walnuts. (F.D.C. No. 43249. S. Nos. 19-258/9 P, 22-254 P.)

INFORMATION FILED: 10-16-59, N. Dist. Calif., against Santa Clara Nut Co., a partnership, San Jose, Calif., Leslie Albaum, sales manager, and Jim Pusateri, partner.

SHIPPED: 10-3-58 and 11-7-58, from California to Colorado and Nebraska.

LABEL IN PART: (Ctn.) "Light and Light Amber Halves & Pieces" and "Light Pieces California Walnut Meats."

CHARGE: 402(a) (3)—contained insects, insect fragments, and insect excreta; and 402(a) (4)—prepared and packed under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 2-17-60. The court placed each defendant on probation for 1 year; fined Jim Pusateri \$500, and Leslie Albaum \$250.

26443. Unshelled filberts. (F.D.C. No. 43839. S. No. 69-221 P.)

QUANTITY: 376 cases, 24 1-lb. bags each, at Hopkins, Minn.

SHIPPED: 10-24-59, from Portland, Oreg.

LIBELED: 12-1-59, Dist. Minn.

CHARGE: 402(a) (3)—contained insects, moldy nuts, shriveled nuts, and empty shells while held for sale.

DISPOSITION: 1-15-60. Consent—claimed by Hudson House, Inc., Portland, Oreg. Segregated; 5,088 lbs. destroyed.

26444. Mixed nuts. (F.D.C. No. 43932. S. No. 72-108 P.)

QUANTITY: 18 cases, 24 1-lb. bags each, at Forest Park, Ga.

SHIPPED: 10-15-59, from Chico, Calif., by Continental Nut Co.

LABEL IN PART: (Bag) "Red Ribbon Fancy Mixed Nuts * * * Packed by Continental Nut Co. Chico, Calif."

LIBELED: 11-27-59, N. Dist. Ga.

CHARGE: 402(a) (3)—contained insects and moldy and shriveled nuts when shipped.

DISPOSITION: 1-6-60. Default—destruction.

26445. Mixed nuts. (F.D.C. No. 43953. S. No. 71-770 P.)

QUANTITY: 11 cases, 24 1-lb. bags each, and 50 1-lb. bags at Atlanta, Ga.

SHIPPED: 10-16-59, from Chico, Calif.

LIBELED: 12-7-59, N. Dist. Ga.

CHARGE: 402(a) (3)—contained insects and moldy, decomposed, rancid, shriveled nuts, and empty shells while held for sale.

DISPOSITION: 1-14-60. Default—destruction.

26446. Pistachio nuts. (F.D.C. No. 44387. S. No. 11-401 R.)

QUANTITY: 18 cases, 24 6-oz. pkgs. each, at Chicago, Ill.

SHIPPED: 10-16-59, from New York, N.Y.

LIBELED: 3-24-60, N. Dist. Ill.

CHARGE: 402(a) (3)—contained insects, insect webbing, and insect larvae while held for sale.

DISPOSITION: 4-25-60. Default—destruction.

SPICES, FLAVORS, AND SEASONING MATERIALS*

26447. Sesame seed. (F.D.C. No. 44107. S. No. 41-941 R.)

QUANTITY: 74 100-lb. bags at San Francisco, Calif.

SHIPPED: 1-5-60 and 2-18-60, from Nicaragua.

LIBELED: 3-25-60, N. Dist. Calif.

CHARGE: 402(a) (3)—contained rodent urine while held for sale.

DISPOSITION: 4-1-60. Consent—claimed by Lastreto-Phillips Commercial Co., Inc., San Francisco, Calif. Segregated; 364 lbs. destroyed.

26448. Paprika. (F.D.C. No. 44411. S. No. 72-630 P.)

QUANTITY: 8 110-lb. bags at New York, N.Y.

SHIPPED: From Hungary.

LIBELED: 4-4-60, S. Dist. N.Y.

CHARGE: 402(a) (3)—contained insects while held for sale.

DISPOSITION: 4-22-60. Default—destruction.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE

26449. Vitamin tablets. (F.D.C. No. 43930. S. No. 78-625 P.)

QUANTITY: 3 drums containing about 126,000 tablets, and 6 1,000-tablet btl., at Dearborn, Mich., in possession of North American Pharmacal.

SHIPPED: 8-7-59, from Englewood, N.J., by Zenith Laboratories, Inc.

LABEL IN PART: (Drum) "Zenith Laboratories, Inc. * * * Chewable Vitamin Tablets" and (btl.) "Multi-Vite * * * Distributed by North American Pharmacal."

*See also No. 26407.

RESULTS OF INVESTIGATION: The tablets in the bottles were repacked by the dealer from the bulk drums described above. Analysis showed that the tablets in the bottles contained approximately 30 percent of the labeled amount of Vitamin B₁₂.

LIBELED: 12-1-59, E. Dist. Mich.

CHARGE: Repacked tablets, 402(b)(1)—the valuable constituent, Vitamin B₁₂ had been in part omitted or abstracted from the article while held for sale; 403(a)—the label statement "Each spheroid contains concentrate equivalent in activity to 1 microgram of B₁₂" was false and misleading, and the label statement "The needs of B-6, Wheat Germ Oil and Calcium Pantothenate in human nutrition are not yet known, and the daily minimum requirement of Niacinamide is not yet established" was false and misleading since the need for vitamin B₆ in human nutrition has been established and the minimum daily requirement for niacinamide has been established, and since the statement implied that wheat germ oil has special dietary properties beyond those of foods, generally; and 403(j)—the article purported to be and was represented as a food for special dietary uses by reason of its vitamin content and its label failed to bear, as required by the regulations, a statement of the proportion of the minimum daily requirement of niacinamide supplied by a specified quantity of the food when consumed during the period of 1 day.

Tablets in bulk, 403(j)—when shipped, the article purported to be and was represented as a food for special dietary use by reason of its vitamin content and its label failed to bear, as required by the regulations, a statement of the proportion of the minimum daily requirement of vitamin A, vitamin D, vitamin B₁, vitamin B₂, vitamin C, and niacinamide supplied by such food when consumed in a specified quantity during a period of 1 day, and since the need for calcium pantothenate in human nutrition has not been established, the label also failed to bear the statement "The need for calcium pantothenate in human nutrition has not been established."

DISPOSITION: 3-29-60. Consent—claimed by North American Pharmacal and relabeled.

26450. Vitamin B Complex tablets. (F.D.C. No. 43951. S. No. 85-339 P.)

QUANTITY: 1 60,000-tablet drum at Edgewater, N.J., in possession of Excel Pharmacal Co.

SHIPPED: May 1959, from New York, N.Y.

LABEL IN PART: (Repacked btls.) "Excel 100 tablets Vitamin B Complex Thiamin Hydrochloride (Vit. B₁) 1 mg. Riboflavin (Vit. B₂) 2 mg. Niacin Amide 10 mg. Vitamin B₆ 0.25 mg. Pantothenic Acid 0.33 mg. Other B complex factors natural to yeast. Each tablet supplies the minimum daily requirements of Vit. B₁ and Vit. B₂. The minimum daily requirements for Niacin Amide, Pantothenic Acid, and Vitamin B₆ in human nutrition has not been established."

RESULTS OF INVESTIGATION: The tablets were to be repacked into 1,000-tablet bottles by the dealer and labeled as described above. Examination showed that the article contained approximately 70 percent of the declared amount of vitamin B₁.

LIBELED: 12-9-59, Dist. N.J.

CHARGE: 402(b)(1)—while held for sale, the valuable constituent, vitamin B₁, had been in part omitted or abstracted from the article; 403(a)—the label

statement "Thiamin Hydrochloride (Vit. B₁) 1 mg." was false and misleading as applied to a product which contained less than the declared amount of vitamin B₁; and the label statement "The minimum daily requirement for Niacin Amide * * * in human nutrition has not been established" was false and misleading, since the minimum daily requirement for niacinamide in human nutrition has been established; and 403(j)—the article purported to be and was represented as a food for special dietary uses by reason of its vitamin content, and its label failed to bear, as required by regulations, a statement of the proportion of the minimum daily requirement for niacinamide supplied by such food when consumed in a specified quantity during a period of one day, and since the need in human nutrition for pantothenic acid has not been established, its label failed to bear the statement "The need for pantothenic acid in human nutrition has not been established."

DISPOSITION: 1-11-60. Default—delivered to a public institution.

INDEX TO NOTICES OF JUDGMENT F.N.J. NOS. 26401 TO 26450

PRODUCTS

	N.J. No.		N.J. No.
Apricot pulp-----	26427	Mix, pancake, blueberry-----	26416
Bakery products-----	¹ 26401-26404	Nuts -----	26436-26446
Bread -----	26402-26404	mixed -----	26444, 26445
Italian -----	¹ 26401	Oleomargarine -----	26409
pumpnickel-----	¹ 26401	Onions, in brine-----	26432
Butter -----	26417	Pancake mix, blueberry-----	26416
Carrots, canned-----	26430	Paprika -----	26448
Cauliflower, in brine-----	26431	Peanuts, shelled-----	26437, 26440
Cereals and cereal products---	¹ 26401-	Spanish -----	26436
	26416	unshelled -----	26440
Cheese, cheddar-----	26418	Peas, split, dried-----	26440
Cornmeal -----	26411	Pecans, shelled -----	26438
Cranberries, fresh-----	26425	unshelled -----	26439
Cranberry sauce, jellied--	26422, 26423	Pinto beans, dried-----	26409
whole -----	26424	Pistachio nuts-----	26446
Dairy products-----	26417, 26418	Pumpnickel bread-----	¹ 26401
Eggs, frozen -----	26419, 26420	Rice -----	26408, 26410-26412
incubator reject-----	26421	Sesame seed-----	26407, 26447
Filberts, unshelled-----	26443	Spices, flavors, and seasoning	
Flour -----	26405-26409	materials -----	26447, 26448
Fruits and vegetables-----	26422-26435	Strawberries, frozen-----	26426
fruit, canned-----	26422-26424	Vegetables. <i>See</i> Fruits and	
fresh -----	26425	vegetables.	
frozen -----	26426	mixed, pickled-----	26433-26435
miscellaneous fruit prod-		Vitamin B Complex tablets----	26450
ucts -----	26427-26429	Vitamin, mineral, and other prod-	
vegetables and vegetable		ucts of special dietary sig-	
products -----	26430-26435	nificance -----	26449, 26450
Grape pulp-----	26428, 26429	Walnuts, shelled-----	26441, 26442
Italian bread-----	¹ 26401	Wheat -----	26413-26415

¹ (26401) Prosecution contested. Contains opinion of the court.

SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS

	N.J. No.		N.J. No.
Albaum, Leslie:		Grosse Pointe Quality Food Co.:	
shelled walnuts-----	26442	whole cranberry sauce-----	26424
Alexander Grocery Co., Inc.:		Helena Wholesale, Inc.:	
rice and cornmeal-----	26411	flour -----	26406
April, Morris, Bros.:		Kalispell Feed Grain Co.:	
jellied cranberry sauce_	26422, 26423	wheat -----	26413
whole cranberry sauce-----	26424	Kelly Canning Co.:	
Bain Peanut Co.:		frozen strawberries-----	26426
shelled Spanish peanuts-----	26436	Kerry, John:	
Becker, M. M.:		bread -----	26404
bread -----	26402	Krikorian, T. J., & Son, Inc.:	
Bennett, Allen, Co., Inc.:		rice -----	26410
flour and rice-----	26408	Laurel Grocery Co.:	
Berkshire Foods, Inc.:		flour, oleomargarine, and dried	
butter -----	26417	pinto beans-----	26409
Bishop, Dexter, Co., Inc.:		Lithuanian Corp. Bakery, Inc.:	
frozen eggs-----	26420	bread -----	26404
Brown, W. T.:		Marathon Cheese Co., Inc.:	
rice and cornmeal-----	26411	cheddar cheese-----	26418
Cargill, Inc.:		Montana Flour Mills Co.:	
wheat -----	26414	flour -----	26405
Cassone, Pasquale:		Monterey Beach Packing Co.:	
Italian bread and pumpernickel		onions in vinegar brine-----	26432
bread ----- ¹	26401	National Cranberry Association:	
Cherabie, G. H.:		fresh cranberries-----	26425
bread -----	26403	New York Bakery:	
Chestnut, W. J.:		bread -----	26402
flour, oleomargarine, and dried		North American Pharmacal:	
pinto beans-----	26409	vitamin tablets-----	26449
Continental Nut Co.:		Orangeburg Pecan Co.:	
mixed nuts-----	26444	shelled pecans-----	26438
D & O Food Products, Inc.:		Overland Terminal Warehouse	
frozen strawberries -----	26426	Co.:	
Duff Baking Mix Corp.:		shelled peanuts, unshelled pea-	
blueberry pancake mix-----	26416	nuts, dried split peas-----	26440
Excel Pharmacal Co.:		Pusateri, Jim:	
Vitamin B Complex tablets---	26450	shelled walnuts-----	26442
Fairmont Foods Co.:		Redmond, Arthur:	
butter -----	26417	frozen eggs-----	26420
Frutchey Bean Co.:		Redmond, A r t h u r, Co. See	
wheat -----	26415	Bishop, Dexter, Co., Inc.	
George's Bakery. See Chera-		Santa Clara Nut Co.:	
bie, G.H.		shelled walnuts-----	26442
Giambanco Wine Vinegar Plant:		Sexton, John, & Co.:	
pickled mixed vegetables----	26433-	pickled mixed vegetables----	26433-
	26435		26435
Griffin, G. W., Jr.:		Utah Wholesale Grocery Co.:	
flour, oleomargarine, and dried		rice -----	26412
pinto beans-----	26409		

¹ (26401) Prosecution contested. Contains opinion of the court.

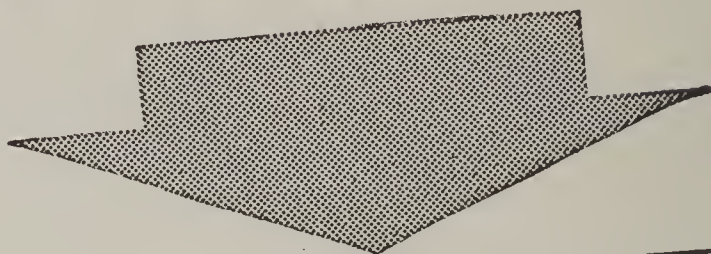
	N.J. No.		N.J. No.
Vanderkolk, Elmer :		West Side Bakery :	
incubator reject eggs-----	26421	Italian bread and pumper-	
		nickel bread-----	¹ 26401
Viva Stone Flour Mills, Inc. :		Williams, R. C. & Co., Inc. :	
flour -----	26405	jellied cranberry sauce-----	26423
Westfield Food Products, Inc. :		Zenith Laboratories, Inc. :	
grape pulp-----	26428, 26429	vitamin tablets-----	26449

¹ (26401) Prosecution contested. Contains opinion of the court.

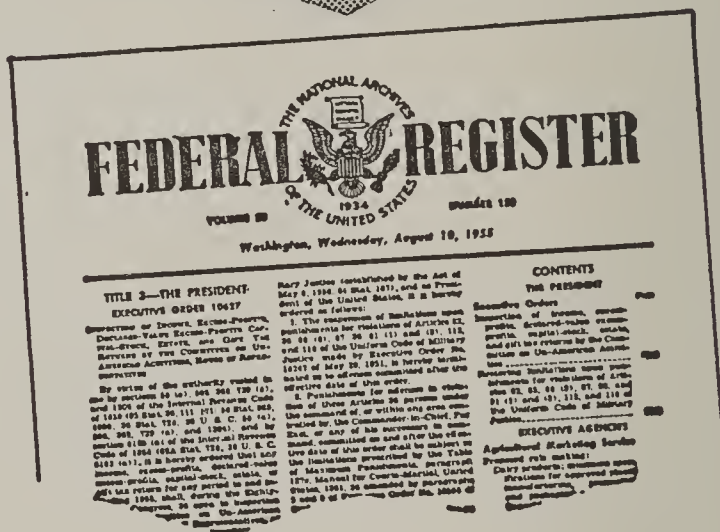
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U.S. Department of Health, Education, and Welfare

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

26451-26550

FOODS

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U. S. DEPARTMENT OF AGRICULTURE

The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were adulterated or misbranded within the meaning of the Act when introduced into and while in interstate commerce, or while held for sale after shipment in interstate commerce. These cases involve (1) seizure proceedings in which decrees of condemnation were entered by default or by consent or after trial; (2) criminal proceedings which were terminated upon pleas of guilty or nolo contendere; and (3) an injunction proceeding terminated upon the entry of a temporary restraining order. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the criminal and injunction proceedings are against the *firms* or *individuals* charged to be responsible for violations.

Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D.C., *September 7, 1960.*

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**SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN VIOLATIONS
REPORTED IN F.N.J. NOS. 26451-26550.**

Adulteration, Section 402(a) (2), the article, in five cases, contained an added poisonous or deleterious substance which was unsafe within the meaning of Section 406, and, in two cases, the article was a raw agricultural commodity and contained a pesticide chemical which was unsafe within the meaning of Section 408(a) ; Section 402(a) (3), the article consisted in part of a filthy or decomposed substance, or it was otherwise unfit for food ; Section 402(a) (4), the article had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth ; Section 402(b) (1), a valuable constituent had been in whole or in part omitted or abstracted from the article ; Section 402(b) (2), a substance had been substituted in whole or in part for the article ; Section 406, a poisonous or deleterious substance was added to food when such substance was not required in the production thereof and could have been avoided by good manufacturing practice ; and Section 408(a), a poisonous or deleterious pesticide chemical had been added to a raw agricultural commodity in excess of the tolerance prescribed by the Secretary of Health, Education, and Welfare.

Misbranding, Section 403(a), the labeling of the article was false and misleading ; Section 403(e), the article was in package form and it failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor ; and (2) an accurate statement of the quantity of contents in terms of weight or measure ; Section 403(g) (2), the article was fabricated from two or more ingredients and its label failed to bear the common or usual name of each such ingredient ; Section 403(h) (1), the article purported to be and was represented as a food for which a standard of quality had been prescribed by regulations and it fell below such standard and its label failed to bear a statement that it fell below such standard ; Section 403(i), the article was not subject to the provisions of Section 403(g), and (1) its label failed to bear the common or usual name of the food ; and (2) it was fabricated from two or more ingredients and its label failed to bear the common name of each such ingredient ; Section 403(j), the article purported to be and was represented for special dietary uses, and its label failed to bear such information concerning its vitamin, mineral, and other dietary properties as the Secretary has determined to be, and by regulation prescribed as, necessary in order fully to inform purchasers as to its value for such uses ; Section 403(k), the article contained a chemical preservative and its label failed to state that fact.

CEREALS AND CEREAL PRODUCTS

FLOUR

26451. Flour. (F.D.C. No. 43596. S. No. 64-156 P.)

QUANTITY: 60 100-lb. bags at Lawrence, Mass.

SHIPPED: 6-23-59, from Buffalo, N.Y.

LIBELED: 10-14-59, Dist. Mass.

CHARGE: 402(a) (3)—contained insects while held for sale.

DISPOSITION: 2-1-60. Default—delivered to a public institution for use as animal feed.

26452. Flour. (F.D.C. No. 44022. S. Nos. 78-030/2 P.)

QUANTITY: 2,000 100-lb. bags at Harbor Beach, Mich., in possession of Hercules Powder Co., Huron Milling Div.

SHIPPED: Between 6-30-59 and 10-28-59, from Chicago, Ill.; Denver, Colo.; and Coffeyville, Kans.

LIBELED: 1-5-60, E. Dist. Mich.; libel amended 1-6-60.

CHARGE: 402(a)(3)—contained rodent excreta pellets and rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 2-2-60: Consent—claimed by Hercules Powder Co., Wilmington, Del. Segregated; 1,998 bags denatured.

26453. Flour. (F.D.C. No. 44362. S. No. 87-523 P.)

QUANTITY: 50 100-lb. bags at Sylvania, Ga., in possession of Alfred Dorman Co.

SHIPPED: 1-18-60, from Yukon, Okla.

LIBELED: 3-4-60, S. Dist. Ga.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 4-14-60. Default—destruction.

26454. Flour. (F.D.C. No. 44106. S. Nos. 36-563/4 R.)

QUANTITY: 264 100-lb. bags at Honesdale, Pa., in possession of J. H. Stegner & Sons.

SHIPPED: 11-4-59, from Minneapolis, Minn.

LIBELED: 3-24-60, M. Dist. Pa.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 4-18-60. Default—80 bags delivered to a public institution for use as animal feed; remainder destroyed.

26455. Flour. (F.D.C. No. 42442. S. Nos. 6-757 P, 7-695 P.)

INFORMATION FILED: 4-30-59, Dist. Mass., against Allied Baking Co., a corporation, Springfield, Mass., and Manning I. Silver, president and treasurer of the corporation.

ALLEGED VIOLATION: Between 4-25-58 and 9-9-58, while quantities of flour were being held for sale after shipment in interstate commerce, the defendants caused the flour to be held in a building accessible to insects and caused the flour to be exposed to contamination by insects, by placing the flour in an insect-contaminated flour conveying system in such building, which acts resulted in the article being adulterated.

CHARGE: 402(a)(3)—contained insects and insect parts; and 402(a)(4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 4-25-60. Corporation fined \$500; individual placed on probation for 2 years.

26456. Flour. (F.D.C. No. 44113. S. No. 81-263 P.)

QUANTITY: 539 100-lb. bags at Cleveland, Ohio.

SHIPPED: 2-2-60, from Minneapolis, Minn.

LIBELED: 4-1-60, N. Dist. Ohio.

CHARGE: 402(a)(3)—contained rodent urine while in interstate commerce.

DISPOSITION: 5-6-60. Consent—claimed by New York, Chicago, & St. Louis Railroad Co. Segregated; 296 bags denatured for use as animal feed.

26457. Flour. (F.D.C. No. 44117. S. No. 21-664 R.)

QUANTITY: 800 100-lb. bags at Monroe, Mich., in possession of New York Central Railroad.

SHIPPED: 2-29-60, from Monroe, Mich., to Lowell, Mass., and from there returned to Monroe, Mich.

LIBELED: 4-8-60, E. Dist. Mich.

CHARGE: 402(a)(3)—while in interstate commerce and while held for sale, the article contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 5-12-60. Consent—claimed by New York Central Railroad. Segregated; 222 100-lb. bags denatured for use as animal feed.

MACARONI AND NOODLE PRODUCTS**26458. Enriched macaroni.** (F.D.C. No. 44037. S. No. 84-052 P.)

QUANTITY: 47 cases, 12 2-lb. bags each, at Salt Lake City, Utah.

SHIPPED: 7-27-59, from San Leandro, Calif., by Golden Grain Macaroni Co.

LABEL IN PART: (Bag) "Neat-Pak Brand * * * Enriched Macaroni Products * * * Packed by Gragnano Products Co., 1111 139th Ave., San Leandro, Calif."

LIBELED: 1-21-60, Dist. Utah.

CHARGE: 403(j)—when shipped, the article purported to be and was represented as a food for special dietary uses by reason of its vitamin content and its label failed to bear, as required by regulations, a statement of the proportion of the minimum daily requirements for vitamins A, B₁, C, riboflavin, or niacin or niacinamide, supplied by such food when consumed in a specified quantity during a period of one day.

DISPOSITION: 3-18-60. Default—delivered to a public institution.

26459. Macaroni products. (F.D.C. No. 44404. S. Nos. 91-712/8 P, 91-720 P.)

QUANTITY: 14 20-lb. ctns., 58 ctns., 12 2-lb. bags each, 65 ctns., 20 1-lb. boxes each, 17 ctns., 12 1-lb. boxes each, 21 ctns., 12 10-oz. boxes each, and 39 ctns., 24 8-oz. boxes each, at Albuquerque, N. Mex., in possession of Sunny State Distributing Co.

SHIPPED: Between April 1958 and 7-10-59, from St. Louis, Mo.

LIBELED: 3-29-60, Dist. N. Mex.

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 5-2-60. Default—delivered to a charitable institution for use as animal feed.

26460. Egg noodles and whole grain wheat. (F.D.C. No. 43940. S. Nos. 75-321/4 P.)

QUANTITY: 14 cases, 12 1-lb. pkgs. each, and 9 cases, 12 12-oz. pkgs. each, of egg noodles, and 12 100-lb. bags of whole grain wheat, at Chicago, Ill., in possession of Western Foods Corp.

SHIPPED: Between 4-21-59 and 9-22-59, from Rochester, N.Y., and Cedar Rapids, Iowa.

LIBELED: 12-3-59, N. Dist. Ill.

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 1-11-60. Default—destruction.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS*

26461. Rice. (F.D.C. No. 43367. S. Nos. 63-507/8 P.)

QUANTITY: 8 100-lb. bags and 28 50-lb. bags at Boston, Mass., in possession of Tung Hing Ling Co.

SHIPPED: Between 3-17-59 and 6-9-59, from South Dos Palos, Calif., and Houston, Tex.

LIBELED: 8-26-59, Dist. Mass.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 9-30-59. Default—destruction.

26462. Rice. (F.D.C. No. 43473. S. Nos. 77-696/7 P.)

QUANTITY: 44 25-lb. bags and 32 100-lb. bags at Cleveland, Ohio.

SHIPPED: 7-10-59, from Stuttgart, Ark.

LIBELED: 10-14-59, N. Dist. Ohio.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 12-4-59. Consent—claimed by Producers Rice Mill, Inc., Stuttgart, Ark.; and reconditioned and cleaned to remove all filth.

26463. Rice. (F.D.C. No. 44146. S. Nos. 60-153/4 P.)

QUANTITY: 80 cases, 12 3-lb. boxes each, and 24 bales, 30 2-lb. bags each, at Rocky Mount, N.C.

SHIPPED: Between 2-18-59 and 8-27-59, from Beaumont, Tex., and Memphis, Tenn.

LIBELED: 1-5-60, E. Dist. N.C.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 3-25-60. Default—destruction.

26464. Rice. (F.D.C. No. 44127. S. Nos. 22-304/5 R.)

QUANTITY: 62 100-lb. bags at Tulsa, Okla., in possession of Diamond Transfer & Storage Warehouse Co.

SHIPPED: 1-28-60, from Carlisle, Ark.

LIBELED: 4-19-60, N. Dist. Okla.

CHARGE: 402(a)(3)—contained bird excreta and rodent excreta; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 5-13-60. Consent—claimed by Robert Black, t/a Diamond Transfer & Storage Warehouse Co. Segregated; 700 lbs. destroyed.

26465. Rice. (F.D.C. No. 44435. S. No. 1-466 R.)

QUANTITY: 190 100-lb. bags at Sanford, Fla., in possession of Central Florida Foods, Inc.

SHIPPED: 2-1-60, from Houston, Tex.

LIBELED: 4-18-60, S. Dist. Fla.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 5-25-60. Default—destruction.

*See also Nos. 26460, 26503, 26536.

26466. Rice and cornmeal. (F.D.C. No. 44561. S. Nos. 1-893/4 R.)

QUANTITY: 60 cases, 20 3-lb. bags each, of rice, and 96 bales, 10 5-lb. bags each, of cornmeal, at Jacksonville, Fla., in possession of Winn-Dixie Stores, Inc.

SHIPPED: 3-23-60 and 3-31-60, from Stuttgart, Ark., and Birmingham, Ala.

LIBELED: 5-5-60, S. Dist. Fla.

CHARGE: 402(a)(3)—contained rodent excreta pellets; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 6-16-60. Default—destruction.

26467. Wheat. (F.D.C. No. 44483. S. No. 9-444 R.)

QUANTITY: 121,000 lbs. at Buffalo, N.Y.

SHIPPED: 5-27-60, from Kansas City, Mo., by Simonds Shields Theis Grain Co.

LIBELED: 6-3-60, W. Dist. N.Y.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 6-15-60. Consent—claimed by Simonds Shields Theis Grain Co., Kansas City, Mo., and converted into animal feed.

26468. Wheat. (F.D.C. No. 44462. S. No. 30-008 R.)

QUANTITY: 120,000 lbs. at Minneapolis, Minn.

SHIPPED: 4-23-60, from Tioga, N. Dak., by Tioga Farmers Grain Co.

LIBELED: 5-18-60, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 5-19-60. Consent—claimed by Tioga Farmers Grain Co., and converted into animal feed.

26469. Wheat. (F.D.C. No. 44134. S. No. 46-412 R.)

QUANTITY: 106,600 lbs. at Maumee, Ohio.

SHIPPED: 4-6-60, from Charlotte, Mich., by Minor-Walton Bean Co.

LIBELED: 4-19-60, N. Dist. Ohio.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 4-27-60. Consent—claimed by C. H. Runciman Co., Lowell, Mich., and converted into animal feed.

26470. Wheat. (F.D.C. No. 44116. S. No. 27-301 R.)

QUANTITY: 82,080 lbs. at Minneapolis, Minn.

SHIPPED: 3-11-60, from Rockham, S. Dak., by Farmers Elevator Co.

LIBELED: 4-5-60, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 4-14-60. Consent—claimed by Farmers Elevator Co., and denatured for use as animal feed.

26471. Wheat. (F.D.C. Nos. 44464, 44465. S. Nos. 9-415/6 R.)

QUANTITY: 106,000 lbs. and 97,200 lbs. at Buffalo, N.Y.

SHIPPED: 5-12-60, from Chicago, Ill., by Continental Grain Co., and from Hartville, Ohio, by Economy Feed & Elevator Co.

LIBELED: 5-20-60, W. Dist. N.Y.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 5-20-60 and 5-25-60. Consent—97,200-lb. lot claimed by Cargill, Inc., Minneapolis, Minn., and 106,000-lb. lot claimed by Continental Grain Co., New York, N.Y. Both lots converted into animal feed.

26472. Hominy grits and chickpeas. (F.D.C. No. 43558. S. Nos. 57-789 P, 72-965 P.)

QUANTITY: 13 100-lb. bags of hominy grits, and 20 110-lb. bags of chickpeas, at Bronx, N.Y., in possession of T. J. Krikorian & Son, Inc.

SHIPPED: (Hominy grits) 3-3-59 and 3-28-59, from Mt. Vernon, Ind., and (chickpeas) 10-5-58, from Portugal.

LIBELED: 10-7-59, S. Dist. N.Y.

CHARGE: 402(a) (3)—hominy grits contained insects and chickpeas contained rodent urine; and 402(a) (4)—chickpeas held under insanitary conditions.

DISPOSITION: 11-13-59. Consent—claimed by T. J. Krikorian & Son, Inc.; chickpeas were reconditioned by cleaning and the hominy grits were denatured.

DAIRY PRODUCTS

MILK

26473. Condensed milk. (F.D.C. No. 44460. S. No. 42-045 R.)

QUANTITY: 125 cases, 24 14-oz. cans each, at Honolulu, Hawaii.

SHIPPED: 5-5-60, from San Francisco, Calif., by Nestle Co.

LABEL IN PART: (Can) "Eagle Brand Sweetened Condensed Milk Prepared for the Nestle Company, White Plains N. Y. Under Rights Acquired from the Borden Company."

LIBELED: 5-16-60, Dist. Hawaii.

CHARGE: 402(a) (2)—when shipped, the article contained added poisonous and deleterious substances, namely, DDT, DDE, and TDE, which are unsafe within the meaning of 406 since these are substances not required in the production of this food and can be avoided by good manufacturing practice.

DISPOSITION: 6-6-60. Consent—destruction.

26474. Evaporated milk. (F.D.C. No. 44120. S. No. 41-441 R.)

QUANTITY: 785 cases, 48 14½-oz. cans each, at Honolulu, Hawaii.

SHIPPED: 3-22-60, from Los Angeles, Calif., by Carnation Co.

LABEL IN PART: (Can) "Carnation Evaporated Milk * * * Carnation Company, Los Angeles, Calif."

LIBELED: 4-12-60, Dist. Hawaii.

CHARGE: 402(a) (2)—when shipped, the article contained added poisonous and deleterious substances, namely, DDT, DDE, and TDE, which are unsafe within the meaning of 406 since these are substances not required in the production of this food and can be avoided by good manufacturing practice.

DISPOSITION: 5-3-60. Consent—destruction.

26475. Evaporated milk. (F.D.C. No. 44372. S. No. 44-041 R.)

QUANTITY: 615 cases, 48 12¼-oz. cans each, at Seattle, Wash.

SHIPPED: 2-10-60, from Newman, Calif., by Foremost Dairies, Inc.

LABEL IN PART: (Can) "Foremost * * * Evaporated Milk Vitamin D Content Increased Carrageenin Added * * * Foremost Dairies, Inc., San Francisco."

LIBELED: 3-23-60, W. Dist. Wash.

CHARGE: 402(a) (2)—when shipped, the article contained added poisonous and deleterious substances, namely, DDE, DDT, and TDE, which are unsafe within the meaning of 406 since these substances are not required in the production of this food and can be avoided by good manufacturing practice.

DISPOSITION: 5-31-60. Default—destruction.

EGGS

26476. Frozen eggs (2 seizure actions). (F.D.C. Nos. 41916, 42184. S. Nos. 13-418/9 P, 13-424 P, 13-429 P.)

QUANTITY: 1,149 30-lb. cans and 272 30-lb. cans at Chicago, Ill.

SHIPPED: Between 5-21-58 and 7-28-58, from Nashville, Tenn., by Modern Egg Products, Inc.

LIBELED: 7-7-58 and 9-12-58, N. Dist. Ill.

CHARGES: 402(a) (3)—contained decomposed eggs when shipped.

DISPOSITION: Weinberg Bros. & Co., Chicago, Ill., claimant, having filed answers denying that the article was adulterated as alleged in the libels, and the libel actions having been consolidated, such actions came on for trial before the court without a jury. On 1-28-59, the court handed down the following findings of fact and conclusions of law:

IGOE, District Judge:

FINDINGS OF FACT

"1. On or about May 21, 1958, June 16, 1958, and July 28, 1958, Modern Egg Products, Inc., Nashville, Tennessee, shipped from Tennessee to Chicago, Ill., consigned to Weinberg Bros. and Co., articles of food consisting respectively of 610, 539, and 272 30-lb. cans, more or less, of frozen whole eggs.

"2. On July 7, 1958, the United States of America filed a Libel of Information in civil action No. 58 C 1230 charging that the articles of food shipped on May 21, 1958, and June 16, 1958, were adulterated within the meaning of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 342(a) (3), in that they consisted wholly or in part of a decomposed substance by reason of the presence therein of decomposed eggs.

"3. On September 12, 1958, the United States of America filed a Libel of Information in civil action No. 58 C 1694 charging that the article of food shipped on July 28, 1958, was adulterated within the meaning of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 342(a) (3), in that it consisted wholly or in part of a decomposed substance by reason of the presence therein of decomposed eggs.

"4. Weinberg Bros. and Co., Chicago, Ill., filed a claim of ownership and answer in each of the Libel proceedings and denied the allegation of adulteration.

"5. The two causes were ordered consolidated and set for trial by the Court, without a jury.

"6. It was stipulated that from the date of shipment from Nashville, Tennessee, and up to the present time, all of the cans of eggs have continuously been in hard frozen form and their quality and condition is the same as it was when introduced into interstate commerce.

"7. Organoleptic examination by smell was made by inspectors of the Food and Drug Administration of: 74 cans randomly sampled from the shipment of May 21, 1958, and 21 of these gave off the odor of decomposed eggs; 20 cans randomly sampled from the shipment of June 16, 1958, and 9 of these gave off the odor of decomposed eggs; 20 cans randomly sampled from the shipment of July 28, 1958, and 15 of these gave off the odor of decomposed eggs.

"8. The cans randomly selected and examined by inspectors of the Food and Drug Administration and physical samples taken therefrom by them for

bacteriological and chemical examination by scientists of the Food and Drug Administration were representative of the quality and condition of the shipments of which they were a part.

"9. At request of claimant, inspectors of the Department of Agriculture organoleptically examined by smell all of the cans from each of the shipments and determined that 4 cans of the May 21, 1958, shipment; 26 cans of the June 16, 1958, shipment; and 31 cans of the July 28, 1958, shipment smelled unsatisfactory.

"10. All of the cans of eggs which smelled decomposed to the Food and Drug inspectors or unsatisfactory to the Department of Agriculture inspectors consisted in whole or in part of decomposed substances.

"11. Some decomposed eggs do not have an odor and their presence in a can of frozen eggs cannot be determined by organoleptic examination but can be determined by bacteriological and chemical analyses.

"12. The aroma of odoriferous decomposed eggs in a can of frozen whole eggs can be diluted out but the presence of such eggs can be determined by bacteriological and chemical analyses.

"13. The physical samples collected by the Food and Drug inspectors were examined by an experienced bacteriologist of the United States Food and Drug Administration who found that the direct microscopic count of bacteria in the samples of the frozen eggs here involved was in the following range:

May 21, 1958 Shipment—61,000,000—over 350,000,000

June 16, 1958 Shipment—33,000,000—78,000,000

July 28, 1958 Shipment—51,000,000—123,000,000

"14. Physical samples collected by the Food and Drug inspectors were analyzed by an experienced Food and Drug Administration chemist whose chemical analyses of the samples of the frozen eggs here involved showed the presence of (in milligrams per 100 grams) :

	<i>May 21</i>	<i>June 16</i>	<i>July 28</i>
acetic acid_____	4.4-19.3	7-9.8	7.1-9.4
lactic acid_____	44-64	35-47	45.1-49.2
formic acid_____	not tested for	0-4.0	not tested for
succinic acid_____	not tested for	0-3.9	not tested for

"15. The shipper of the eggs, Modern Egg Products, Inc., retained a private, independent, professional analyst who randomly sampled cans from each shipment and determined that every can sampled smelled decomposed upon organoleptic examination.

"16. The private food analyst retained by the shipper collected physical samples from each of the shipments and utilizing the same methods of analysis as did the Food and Drug Administration chemist found acetic and lactic acids in each of the samples.

"17. The bacteriological and chemical methods of analyses for detecting decomposition in frozen eggs which were developed by and used here by the Government scientists and the private food analyst have been published and are accepted by the frozen egg industry as a reliable method for detecting decomposition.

"18. All of the scientific evidence in the case, presented by employees of the Food and Drug Administration, employees of the Department of Agriculture, and the private, independent analyst retained by the shipper, shows that each of the shipments of frozen eggs here involved consists in part of decomposed substances by reason of the presence of decomposed eggs."

CONCLUSIONS OF LAW

"1. The articles of food here involved were shipped in interstate commerce from Nashville, Tennessee, to Chicago, Illinois, on the dates alleged in the Libels of Information.

"2. The articles were seized in the Northern District of Illinois and the Court has jurisdiction over these consolidated causes and the parties.

"3. That each of the shipments of frozen whole egg made by Modern Egg Products, Inc., on May 21, 1958, June 16, 1958, and July 28, 1958, constitutes an article for purposes of 21 U.S.C. 334.

"4. Organoleptic tests by use of the sense of smell are determinative of the presence of decomposed substances in frozen eggs, within the meaning of 21 U.S.C. 342(a) (3), when the odor of decomposition is present. Decomposition can exist, however, within the meaning of 21 U.S.C. 342(a) (3) even when no odor is obtained but this decomposition will be detected by bacteriological and chemical analyses.

"5. The presence of bacteria in frozen whole egg in an amount in excess of 5,000,000 per gram of egg by direct microscopic count is determinative of the presence of decomposed substances in the eggs within the meaning of 21 U.S.C. 342(a) (3).

"6. The presence of acetic, formic, or succinic acid in any measurable quantity in frozen whole egg is determinative of the presence of decomposed substances in the eggs within the meaning of 21 U.S.C. 342(a) (3).

"7. The presence of lactic acid in excess of 7 milligrams per 100 grams of egg in combination with a direct microscopic bacteria count of 5,000,000 or more is determinative of the presence of decomposed substances in frozen eggs within the meaning of 21 U.S.C. 342(a) (3).

"8. By reason of the presence therein of decomposed eggs, a part of each of the articles here involved was adulterated when introduced into and while in interstate commerce within the meaning of 21 U.S.C. 334(a) and 342(a) (3).

"9. If a part of an article of food is adulterated within the meaning of 21 U.S.C. 342, the entire article must be condemned.

"10. The said articles of food seized herein are subject to forfeiture and condemnation to the United States.

"11. The Government is entitled to a decree of condemnation and forfeiture, pursuant to 21 U.S.C. 334(a), and to its cost pursuant to 21 U.S.C. 334(e)."

Pursuant to such findings and conclusions the court entered a decree on 1-28-59, providing for condemnation of the eggs and their release under bond for denaturing for use as animal feed.

26477. Incubator reject eggs. (Inj. No. 342).

COMPLAINT FOR INJUNCTION FILED: About 12-5-58, N. Dist. Ga., against Technical Egg Products, Inc., Gainesville, Ga., and Curtis Parks, Jr., manager of the Gainesville plant.

CHARGE: The complaint alleged that the defendants were engaged at Gainesville, Ga., in the business of purchasing, receiving, candling, and packing a product known in the trade as incubator reject shell eggs, and had been and were introducing and causing to be introduced into interstate commerce, incubator reject eggs which were adulterated within the meaning of 402(a) (3) by reason of the presence of decomposed egg material and eggs otherwise unfit for food because they were incubator reject eggs.

It was alleged further that defendants employed a method of operation whereby defendants purchased incubator reject eggs from about 74 chicken hatcheries within the States of Georgia; that defendants arranged with several hatcheries to have the incubator reject eggs put into cases of thirty dozen capacity and set aside until picked up by defendants; that defendants paid the hatcheries about \$2.00 per case for the eggs and then transported them to the plant at Gainesville, Ga.; that upon receipt of the eggs at the Gainesville plant, the incubator reject eggs containing black rots, sour rots, mixed rots, embryos, and eggs ranging in other degrees of decomposition were unloaded and stacked for various and prolonged periods inside the plant without refrigeration; that the incubator reject eggs were then subjected to candling, the only operation performed at the Gainesville plant, which candling separated the grossly decomposed incubator reject eggs from the unfit-for-food incubator reject eggs; that defendants then shipped the candled incubator reject eggs to their plant at

Nashville, Tenn., without denaturing the eggs so as to preclude their use in human food products.

The complaint alleged further that the defendants were well aware that their acts were violative of the law; that various inspections had been made of the defendants plant by representatives of the Food and Drug Administration at which times the defendants were warned that their practices were violative of the law; that defendants had consented to several decrees of condemnation involving seizures of incubator reject eggs; and that defendant, Technical Egg Products, Inc., and its president, were convicted 11-29-57, of shipping decomposed frozen whole eggs in interstate commerce; and that despite these warnings, defendants continued to ship adulterated eggs into interstate commerce.

It was alleged also that the defendants had on hand at the Gainesville plant, stocks of incubator reject shell eggs which would in the usual and ordinary course of business be shipped in interstate commerce, and that such article constituted a menace to interstate commerce in that it was adulterated as described above.

DISPOSITION: The court heard the Government's motion for a temporary restraining order on 1-30-59, after affidavits had been filed by witnesses for the Government and the defendants. On 2-2-59, the court issued the following findings and conclusions of law:

SLOAN, *District Judge*:

FINDINGS

"1. Incubator reject shell eggs are shell eggs that have been placed in incubators and kept under a constant temperature of 98 degrees fahrenheit for varying numbers of days up to 20, but resemble in external appearance shell eggs as commercially marketed and are a food within the meaning of § 201(f) of the Act [21 U.S.C., § 321(f) (2)].

"2. A large percentage of the incubator reject eggs are inedible and fall within the classification of inedible eggs, i.e. mixed rots, black rots, blood rings, and dead embryos and are therefore adulterated within the meaning of the Federal Food, Drug and Cosmetic Act, § 402(a) (3) [21 U.S.C., § 342(a) (3)].

"3. The defendants are introducing and causing to be introduced and delivered for introduction into interstate commerce, incubator reject eggs which are adulterated.

"4. The Court finds that there is danger of such adulterated food being diverted to food use by breaking out and otherwise removing the egg from the shell and mixing the egg with magma and freezing in cans for distribution to bakeries and similar food industries that customarily use frozen eggs as a raw material.

CONCLUSIONS OF LAW

"This Court has jurisdiction of the case by virtue of the provisions of Title 21, § 332, U.S.C.

"§ 331 of Title 21, U.S.C. prohibits the introduction into interstate commerce of adulterated foods and § 342(a) (3) provides 'food shall be deemed to be adulterated—(3) if it consists in whole in in part of any filthy, putrid or decomposed substance or if it is otherwise unfit for food.' [Emphasis supplied.]

"The affidavit of the defendant, Curtis Parks, Jr., states as follows:

That he is manager and resident agent of the Georgia Branch of Technical Egg Products, Inc., a Tennessee corporation. That the said corporation is in the inedible egg business and that from these infertile inedible eggs various technical products are produced, such as tanner's yolk and technical albumen, and that none of said products which are produced by Technical Egg Products, Inc., go into human food channels.

"The term 'food' as used in the Federal Food, Drug and Cosmetic Act must be read in such a way that it includes, but is not limited to items which are

unfit to be consumed. The test for determining whether an item is a food under the Act can not be one of intended use. *United States v. 52 Drums Maple Syrup*, 110 F. 2d 914. It must of necessity be one which regards items as food which are generally so regarded when sold in a food form. Thus a rotten egg is one differing only in degree rather than kind from a sound egg. Eggs being sound or rotten are food under the statutory definition. If a dealer in inedible eggs, such as the defendants here, desires to utilize the channels of interstate commerce, with immunity from the provisions of the Federal Food, Drug and Cosmetic Act, it is necessary that he change the very nature of the product in which he deals. So long as the product retains a semblance of the identity it possessed as a food, the product must be considered as a food. *United States v. Thirteen Crates of Frozen Eggs*, 208 F. 950, affirmed, 215 F. 584.

"The plaintiff is entitled to an injunction by virtue of the provisions of § 332 of Title 21, U.S.C. Let the temporary restraining order be prepared and presented and let it be specific in its terms enjoining the defendants herein, their agents, attorneys and servants until the further order of the Court from shipping or causing to be shipped in interstate or foreign commerce the incubator reject eggs unless they are first denatured so as to render them incapable of being used for food."

Pursuant to the findings and conclusions of law, the court on 2-5-59, entered a temporary restraining order enjoining the defendants, until further order of the court, from introducing into interstate commerce:

(a) incubator reject shell eggs which consist in part of a decomposed substance by reason of the presence in the eggs of decomposed material and which are otherwise unfit for food because they are incubator reject eggs, unless and until the incubator reject eggs are completely denatured so as to preclude their use in human food products; and

(b) any of the stocks of incubator reject shell eggs now on hand at the defendants' Gainesville plant, or incubator reject shell eggs elsewhere, unless and until all such eggs are completely denatured so as to preclude their use in human food products, and thus brought into compliance with the law.

26478. Frozen eggs. (F.D.C. No. 43998. S. Nos. 71-261 P, 71-266 P.)

QUANTITY: 60 30-lb. cans at Collegedale, Tenn.

SHIPPED: 9-23-59, from Forest Park, Ga., by Superior Eggs, Inc.

LABEL IN PART: "Superior * * * Whole Eggs * * * Packed by Superior Eggs, Inc. Forest Park, Ga. * * * 869T 16251."

LIBELED: 12-18-59, E. Dist. Tenn.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 3-21-60. Consent—claimed by Superior Eggs, Inc. Segregated; 21 cans destroyed.

26479. Frozen eggs (2 seizure actions). (F.D.C. Nos. 43606, 43607. S. No. 63-989 P.)

QUANTITY: 28 30-lb. cans at Lynn, Mass., and 119 30-lb. cans at Danvers, Mass.

SHIPPED: The article was shipped in the form of shell eggs from various producers in Massachusetts, Connecticut, Vermont, Maine, and New Hampshire, sometime prior to 7-2-59, to Lynn, Mass., where the article was packed in the form of frozen eggs.

LIBELED: 10-19-59, Dist. Mass.

CHARGE: 402(a)(3)—contained decomposed eggs while held for sale.

DISPOSITION: 2-11-60. Tobin's Egg Store, Lynn, Mass., having appeared as claimant and the libel actions having been consolidated, judgment of con-

demnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law. The article was examined with the result that 141 30-lb. cans were found unfit and were denatured for tannery use.

FEEDS AND GRAINS

26480. Apple pomace silage. (F.D.C. No. 44250. S. No. 84-355 P.)

QUANTITY: 275 tons at Charles Town, W. Va.

SHIPPED: 10-1-59 and 11-15-59, from Winchester, Va., by National Fruit Product Co., Inc.

LIBELED: 2-26-60, N. Dist. W. Va.

CHARGE: 402(a) (2)—when shipped, the article contained an added poisonous and deleterious substance, DDT, which is unsafe within the meaning of 408 since the quantity of DDT contained on the article was greater than the tolerance fixed by the Secretary for such pesticide chemical on apples.

DISPOSITION: 3-31-60. Consent—claimed by John P. Burns, Jr., Charles Town, W. Va., and destroyed by spreading the article upon the owner's land in such a manner as to be kept inaccessible to livestock.

26481. Meat scraps. (F.D.C. No. 44064. S. No. 56-143 P.)

QUANTITY: 140 100-lb. bags at Tampa, Kans.

SHIPPED: 11-6-59, from Lincoln, Nebr., by Weeks Sales & Service, Inc.

LABEL IN PART: (Tag) "Black Hills Packing Co. Rapid City, South Dakota, Rushmore Meat Scraps * * * Crude Protein 50%."

RESULTS OF INVESTIGATION: Examination showed that the article contained approximately 47 percent protein.

LIBELED: 2-17-60, Dist. Kans.

CHARGE: 402(b) (2)—when shipped, a mixture of hair, bristle, stomach content, horn, hoof, and sand, had been substituted in part for meat scraps; and 403(a)—the label statement "Crude Protein 50%" was false and misleading.

DISPOSITION: 4-4-60. Default—destruction.

FISH AND SHELLFISH

26482. Frozen halibut. (F.D.C. No. 43904. S. No. 85-237 P.)

QUANTITY: 108 halibut fish, weighing a total of approximately 1,646 lbs., at New York, N.Y.

SHIPPED: From Nova Scotia.

RESULTS OF INVESTIGATION: The article was shipped unfrozen and subsequently frozen at New York, N.Y.

LIBELED: 11-20-59, S. Dist. N.Y.

CHARGE: 402(a) (3)—contained decomposed fish while held for sale.

DISPOSITION: 12-16-59. Default—destruction.

26483. Frozen haddock fillets. (F.D.C. No. 43644. S. No. 90-141 P.)

QUANTITY: 551 boxes, each containing 5 1-lb. cello-wrapped pkgs., at Boston, Mass.

SHIPPED: These fillets were from fish caught by the fishing vessel "Rosa B" in the waters of the Atlantic Ocean outside the territorial limits of Massachusetts, on October 16, 1959.

LIBELED: 11-5-59, Dist. Mass.

CHARGE: 402(a)(3)—contained decomposed fish fillets when shipped.

DISPOSITION: 3-3-60. Consent—claimed by Baker, Boies & Watson Co., Boston, Mass. Segregated; 615 lbs. destroyed.

26484. Frozen haddock fillets. (F.D.C. No. 43342. S. No. 64-004 P.)

QUANTITY: 8 50-lb. cases, 5 10-lb. ctns. each, at Boston, Mass.

SHIPPED: These fillets were from fish caught by the fishing vessels "Swallow," "Atlantic," and "J. B. Junior," in the waters of the Atlantic Ocean outside the limits of Massachusetts, on or about 7-21-59.

LIBELED: 8-11-59, Dist. Mass.

CHARGE: 402(a)(3)—contained decomposed fish when shipped.

DISPOSITION: 9-14-59. Default—destruction.

26485. Frozen pollock fillets. (F.D.C. No. 44087. S. No. 86-711 P.)

QUANTITY: 17 cases, 5 10-lb. unlabeled ctns. each, at Utica, N.Y.

SHIPPED: 2-3-60, from Boston, Mass., by Slade-Gorton Co.

LABELED IN PART: (Case) "Slade-Gorton * * * Poll Fill 60348."

LIBELED: 3-15-60, N. Dist. N.Y.

CHARGE: 403(e)(1)—when shipped, the article failed to bear a label containing the name and place of business of the manufacturer, packer or distributor; 403(i)(1)—it failed to bear a label containing the common or usual name of the food; and 403(e)(2)—the 10-lb. carton failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 5-12-60. Default—delivered to a charitable institution.

26486. Frozen dressed whitefish. (F.D.C. No. 43974. S. Nos. 74-866/7 P, 74-870 P.)

QUANTITY: 86 boxes and 278 boxes at Chicago, Ill.

SHIPPED: 10-21-59, from Winnipeg, Canada, by Canadian Fish Producers, Ltd.

LABEL IN PART: (86 boxes) "Canadian Fish Prod. Ltd. Winnipeg Man. 50 Med. Dr. Whites Kalliecahoolie Lake Manitoba Medium."

LIBELED: 12-18-59, N. Dist. Ill.

CHARGE: 402(a)(3)—the 86-box lot contained parasitic cysts when shipped, and all lots contained decomposed fish while held for sale.

DISPOSITION: 5-3-60. Default—destruction.

26487. Frozen whitefish fillets. (F.D.C. No. 43191. S. Nos. 61-127/30 P.)

QUANTITY: 13 cases, 10 5-lb. ctns. each, at Detroit, Mich.

SHIPPED: 6-3-58, from Chicago, Ill.

LIBELED: 6-19-59, E. Dist. Mich.

CHARGE: 402(a)(2)—while held for sale, the article contained an added poisonous and deleterious substance, sodium nitrite, which is unsafe within the meaning of 406 since it is a substance not required in the production of this food and can be avoided by good manufacturing practice.

DISPOSITION: 6-16-60. Consent—claimed by Salasnek Fisheries, Inc., Detroit, Mich., and destroyed.

26488. Frozen carp, frozen whitefish, and frozen spoonbill (fish). (F.D.C. No. 43303. S. Nos. 73-365/7 P.)

QUANTITY: 5,397 lbs. of carp, 2 boxes, 162 lbs. total, of whitefish, and 17 spoonbill fish, totaling 77 lbs., at New York, N.Y.

SHIPPED: Between 9-15-58 and 5-1-59, from Alabama, Iowa, Michigan, Wisconsin, and Canada.

LIBELED: 8-4-59, S. Dist. N.Y.

CHARGE: 402(a)(3)—contained decomposed fish while held for sale.

DISPOSITION: 9-24-59. Default—destruction.

26489. Frozen jack pike (fish). (F.D.C. No. 44386. S. No. 32-524 R.)

QUANTITY: 3 cases, 159 lbs. total, at New York, N.Y.

SHIPPED: From Canada.

LIBELED: 3-24-60, S. Dist. N.Y.

CHARGE: 402(a)(3)—contained decomposed fish while held for sale.

DISPOSITION: 4-22-60. Default—destruction.

26490. Crabmeat spread. (F.D.C. No. 44664. S. No. 12-407 R.)

QUANTITY: 73 cases, 50 1½-oz. cans each, at Chicago, Ill.

SHIPPED: 12-7-59, from Oslo, Norway.

RESULTS OF INVESTIGATION: Examination showed that the article was undergoing decomposition.

LIBELED: 6-13-60, N. Dist. Ill.

CHARGE: 402(a)(3)—contained a decomposed substance while held for sale.

DISPOSITION: 6-24-60. Default—destruction.

FRUITS AND VEGETABLES

DRIED FRUIT*

26491. Dried prunes. (F.D.C. No. 44547. S. No. 79-192 P.)

QUANTITY: 95 30-lb. ctns. at Cleveland, Ohio.

SHIPPED: 10-26-59, from San Jose, Calif., by Mayfair Packing Co.

LABEL IN PART: (Ctn.) "Calavo Brand California 18/24 Prunes Distributed by Tropical Produce, Inc., Cleveland, Ohio."

LIBELED: 4-26-60, N. Dist. Ohio.

CHARGE: 402(a)(3)—contained insect larvae and insect excreta pellets; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 5-27-60. Default—destruction.

FROZEN FRUIT

26492. Frozen blueberries. (F.D.C. No. 43470. S. No. 66-342 P.)

QUANTITY: 300 20-lb. cans at Amsterdam, N.Y.

SHIPPED: 9-1-59, from Somerville, Mass., by Nova Scotia Blueberry Exporters Co.

*See also No. 26502.

LIBELED: 10-9-59, N. Dist. N.Y.

CHARGE: 402(a)(3)—when shipped, the article contained sour, decomposed blueberries, and had a bitter taste; 403(e)—the article failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor, and (2) an accurate statement of the quantity of contents; and 403(i)(1)—the label failed to bear the common or usual name of the article.

DISPOSITION: 12-7-59 and 4-19-60. Consent—claimed by Nova Scotia Blueberry Exporters, Somerville, Mass., and exported to Canada where the product had originated.

VEGETABLES AND VEGETABLE PRODUCTS

26493. Canned green beans. (F.D.C. No. 44240. S. No. 85-458 P.)

QUANTITY: 181 cases, 24 15½-oz. cans each, at Garden City, N.Y.

SHIPPED: Between 10-26-59 and 11-17-59, from Hampstead, Md., by Hampstead Packing Co.

LABEL IN PART: (Can) "Iona Cut Green Beans * * * The Great Atlantic & Pacific Tea Co., New York, N.Y., Distributors."

LIBELED: 2-23-60, E. Dist. N.Y.

CHARGE: 402(a)(3)—contained insect larvae and insect-damaged beans when shipped.

DISPOSITION: 4-4-60. Default—destruction.

26494. Canned green beans. (F.D.C. No. 44470. S. No. 40-702 R.)

QUANTITY: 656 cases, 6 6-lb. 5-oz. cans each, at Shawano, Wis.

SHIPPED: 5-11-60, from Shawano, Wis., to St. Louis, Mo., by Shawano Canning Co., and subsequently returned to Shawano, Wis.

LABEL IN PART: (Can) "Cut Green Beans."

LIBELED: 5-26-60, E. Dist. Wis.; libel amended 5-31-60.

CHARGE: 403(e)(1)—when shipped, the label of the article failed to bear the name and place of business of the manufacturer, packer, or distributor; and 403(h)(1)—the article purported to be and was represented as cut green beans, and its quality fell below the standard prescribed by regulations since the deseeded pods of the article contained more than 0.15 percent by weight of fibrous material, and its label failed to bear, in such manner and form as such regulations specify, a statement that it fell below such standard.

DISPOSITION: 6-7-60. Consent—claimed by Shawano Canning Co. and relabeled.

26495. Canned green beans. (F.D.C. No. 44541. S. No. 3-378 R.)

QUANTITY: 148 cases, 24 1-lb. 12-oz. cans each, at Marion, Va.

SHIPPED: 1-27-60, from Williamston, N.C., by Martindale Foods, Inc.

LABEL IN PART: (Can) "Martindale Brand Cut Green Beans * * * Packed by Martindale Foods, Inc., Williamston, North Carolina, Weldon, North Carolina."

LIBELED: 4-22-60, W. Dist. Va.

CHARGE: 402(a)(3)—contained *Drosophila* fly eggs, larvae, and maggots when shipped; and 403(h)(1)—the quality of the article fell below the standard of quality for canned cut green beans because of excess fibrous material and excess blemished pieces, and its label failed to bear a statement that it fell below such standard.

DISPOSITION: 6-16-60. Default—delivered to a public institution for use as animal feed.

26496. Canned peas. (F.D.C. No. 43451. S. No. 60-002 P.)

QUANTITY: 413 cases, 24 15-oz. cans each, at Austin, Ind.

SHIPPED: On 5-6-59, 5-18-59, and 7-13-59, from Austin, Ind., by Morgan Packing Co., Inc., to Baltimore, Md., and from there returned to the shipper on 9-4-59.

LABEL IN PART: (Can) "Royal Gem Early June Peas Prepared from Dry Peas Packed by Scottsburgh Canning Co. Scottsburgh, Indiana."

LIBELED: 10-1-59, S. Dist. Ind.

CHARGE: 403(a)—when shipped, the label vignette depicting succulent green peas was false and misleading as applied to the article which was prepared from dried peas; 403(e) (2)—the article purported to be and was represented as a food for which a definition and standard of identity had been prescribed, and its label failed to bear the name "dried early green peas," as specified in such definition and standard; and 403(h) (1)—the quality of the article fell below the standard of quality for canned peas since the article contained an excessive number of ruptured peas and its alcohol-insoluble solids were more than 23.5 percent.

DISPOSITION: Between 4-1-60 and 4-12-60. Default—delivered to a local Government officer for charitable purposes.

26497. Canned pumpkin. (F.D.C. No. 44025. S. No. 69-268 P.)

QUANTITY: 164 cases, 24 1-lb. 13-oz. cans each, at Fargo, N. Dak.

SHIPPED: 11-2-59, from Owatonna, Minn., by Owatonna Canning Co.

LABEL IN PART: (Can) "Festal Brand Golden Pie Pumpkin * * * Packed by Owatonna Canning Co., Owatonna Minn."

LIBELED: 1-8-60, Dist. N. Dak.

CHARGE: 402(b) (2)—when shipped, starch had been substituted in whole or in part for pumpkin; 402(a) (3)—the article consisted in whole or in part of a filthy substance by reason of having been prepared from dirty pumpkins; and 403(i) (2)—the label of the article failed to bear the common or usual name of each ingredient.

DISPOSITION: 4-19-60. Default—destruction.

26498. Dried lima beans. (F.D.C. No. 44099. S. No. 21-583 R.)

QUANTITY: 600 100-lb. bags at Charlotte, Mich., in possession of Grand Trunk Western Railroad.

SHIPPED: 2-23-60, from San Francisco, Calif.

RESULTS OF INVESTIGATION: The article was shipped in a rodent-infested railroad car.

LIBELED: 3-24-60, W. Dist. Mich.

CHARGE: 402(a) (3)—contained rodent urine; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 4-27-60. Consent—claimed by Grand Trunk Western Railroad Co., Detroit, Mich. Segregated; 522 bags denatured.

26499. Lettuce. (F.D.C. No. 44094. S. No. 14-462 R.)

QUANTITY: 129 ctns., 24 heads each, at Nashville, Tenn.

SHIPPED: 2-26-60, from Edinburg, Tex., by Wallace Fruit & Vegetable Co.

LABEL IN PART: (Ctn.) "Produce of U.S.A. Wallace Brand Lettuce Packed & Shipped by Wallace Fruit & Veg. Co. Edinburg, Texas."

LIBELED: 3-15-60, M. Dist. Tenn.

CHARGE: 402(a) (2)—the article was a raw agricultural commodity and, when shipped, contained a pesticide chemical, namely, toxaphene, which is unsafe within the meaning of 408 since the quantity of such pesticide chemical on the article was not within the limits of the tolerance prescribed by regulations.

DISPOSITION: 3-24-60. Consent—destruction.

26500. Pickled mixed vegetables. (F.D.C. No. 44185. S. No. 71-961 P.)

QUANTITY: 73 cases, 4 1-gal. jars each, at Atlanta, Ga.

SHIPPED: 12-2-59, from Richmond, Calif.

LABEL IN PART: (Jar) "Sexton * * * Imported Italian & Domestic Pickled Mixed Vegetables Contains * * * Distributed by John Sexton & Co. * * * Chicago, Ill."

RESULTS OF INVESTIGATION: The article was manufactured by Giambanco Wine & Vinegar Co., Oakdale, Calif.

LIBELED: 1-14-60, N. Dist. Ga.

CHARGE: 402(a) (3)—contained *Drosophila* flies and fly parts when shipped.

DISPOSITION: 3-7-60. Default—destruction.

26501. Pickled mixed vegetables. (F.D.C. No. 44098. S. No. 88-715 P.)

QUANTITY: 33 cases, 4 1-gal. jars each, at Indianapolis, Ind.

SHIPPED: 12-2-59, from Richmond, Calif.

RESULTS OF INVESTIGATION: The article was manufactured by Giambanco Wine & Vinegar Co., Oakdale, Calif.

LIBELED: 3-22-60, S. Dist. Ind.

CHARGE: 402(a) (3)—contained insects, insect parts, and maggots when shipped.

DISPOSITION: 5-13-60. Default—destruction.

26502. Cowpeas and raisins. (F.D.C. No. 44408. S. Nos. 98-783 P, 98-787 P.)

QUANTITY: 98 120-lb. bags of cowpeas and 51 30-lb. boxes of raisins, at Savannah, Ga., in possession of Alexander Grocery Co.

SHIPPED: 11-25-58 and 12-21-59, from Fresno, Calif., and Gifford, S.C.

LIBELED: 3-29-60, S. Dist. Ga.

CHARGE: 402(a) (3)—cowpeas contained rodent urine, rodent excreta, bird excreta, and insects; raisins contained insects and insect excreta; and 402(a) (4)—cowpeas held under insanitary conditions.

DISPOSITION: 4-27-60. Consent—claimed by Alexander Grocery Co. The raisins were delivered to a charitable institution for use as animal feed, and the cowpeas were denatured for use as seed peas.

26503. Dried pigeon peas, dried lima beans, and rice. (F.D.C. No. 43550. S. Nos. 57-790/2 P.)

QUANTITY: 47 200-lb. bags of pigeon peas, 61 100-lb. bags of lima beans, and 65 100-lb. bags of rice, at Bronx, N.Y., in possession of T. J. Krikorian & Son, Inc.

SHIPPED: Between 2-1-58 and 6-30-59, from London, England; Stockton, Calif.; and Stuttgart, Ark.

LIBELED: 9-29-59, S. Dist. N.Y.

CHARGE: 402(a)(3)—peas contained insects and beans and rice contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 11-13-59 and 12-2-59. Consent—claimed by T. J. Krikorian & Son, Inc., and reconditioned by cleaning.

26504. Dried pinto beans. (F.D.C. No. 43775. S. No. 58-892 P.)

QUANTITY: 30 100-lb. bags at Lubbock, Tex., in possession of White Swan Institutional Foods Co.

SHIPPED: 8-10-59, from Denver, Colo.

RESULTS OF INVESTIGATION: Examination showed that the article was held in bags contaminated by DDT and contained DDT.

LIBELED: 10-30-59, N. Dist. Tex.

CHARGE: 402(a)(2)—while held for sale, the article contained an added poisonous and deleterious substance which was unsafe within the meaning of 406 since it was a substance not required in the production of the article and could be avoided by good manufacturing practice; and 402(a)(4)—held under insanitary conditions whereby it may have been rendered injurious to health.

DISPOSITION: 4-20-60. Default—destruction.

26505. Olives. (F.D.C. No. 43102. S. Nos. 14-942 P, 49-889 P.)

INFORMATION FILED: 9-25-59, N. Dist. Ohio, against Gust Gallucci Co., a corporation, Cleveland, Ohio, and Frank L. Gallucci, secretary of the corporation.

ALLEGED VIOLATION: Between 4-10-57 and 12-11-58, and while a quantity of olives was being held for sale after shipment in interstate commerce, the defendants caused the article to be held in a building under conditions whereby the article became moldy, decomposed, and contaminated with insects.

CHARGE: 402(a)(3)—contained insects, mold, and decomposed olives; and 402(a)(4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 12-4-59. Corporation—\$1,000 fine; individual—\$100 fine which was suspended.

26506. Sweet pickle relish. (F.D.C. No. 43220. S. No. 48-293 P, 48-298 P.)

INFORMATION FILED: 9-9-59. N. Dist. Calif., against Monterey Beach Packing Co., Inc., Watsonville, Calif., and Leopold A. van Lier.

ALLEGED VIOLATIONS: On 12-5-58, the defendants gave to a firm engaged in the business of shipping sweet pickle relish in interstate commerce a guaranty to the effect that sweet pickle relish delivered by the defendants under the guaranty would not be adulterated. On 12-18-58 and 1-26-59, the defendants caused to be delivered to the holder of the guaranty quantities of sweet pickle relish which were adulterated.

CHARGE: 402(a)(3)—contained insects and insect fragments; and 402(a)(4)—prepared and packed under insanitary conditions.

PLEA: Nolo contendere by each defendant.

DISPOSITION: 2-25-60. Corporation fined \$250; individual fined \$250 and placed on probation for 6 months.

26507. Sweet pickles and sweet pickle relish. (F.D.C. No. 43202. S. Nos. 44-994, P, 48-281/2 P.)

INFORMATION FILED: 9-9-59, N. Dist. Calif., against the California Conserving Co., Inc., Mountain View, Calif., and Lawrence Lafleur, vice-president of the corporation.

ALLEGED VIOLATIONS: On 12-23-57, the defendants gave to a firm engaged in the business of shipping pickles in interstate commerce a guaranty to the effect that the articles delivered by the defendants under the guaranty would not be adulterated. Between 11-19-58 and 12-5-58, the defendants caused to be delivered to the holder of the guaranty quantities of sweet pickles and sweet pickle relish which were adulterated.

CHARGE: 402(a)(3)—contained insect filth; and 402(a)(4)—prepared under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 2-24-60. Corporation fined \$750; individual fined \$250 and placed on probation for 1 year.

26508. Sweet gherkins (pickles). (F.D.C. No. 44163. S. No. 90-644 P.)

QUANTITY: 75 cases, 12 10-oz. jars each, at Boston, Mass.

SHIPPED: 12-8-59, from Old Saybrook, Conn., by Goodman Bros., Inc.

LABEL IN PART: (Jar) "S. S. Pierce Co. * * * Overland Sweet Gherkins * * * Packed for S. S. Pierce Co. Boston, Mass."

LIBELED: 1-4-60, Dist. Mass.

CHARGE: 402(a)(3)—contained *Drosophila* flies, fly parts, and maggots when shipped.

DISPOSITION: 3-7-60. Default—destruction.

26509. Dill pickles in brine. (F.D.C. No. 42297. S. Nos. 13-824 P, 13-827 P.)

QUANTITY: 1,700 bushels at Chicago, Ill., in possession of Manhattan Pickle Co., Inc.

SHIPPED: Various times during August and September of 1956, 1957, and 1958 from Three Oaks, Mich., and vicinity.

LIBELED: 11-12-58, N. Dist. Ill.

CHARGE: 402(a)(3)—contained insects while held for sale; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 1-7-59. Consent—claimed by Manhattan Pickle Co., Inc., and destroyed.

TOMATOES AND TOMATO PRODUCTS

26510. Canned tomatoes. (F.D.C. No. 43639. S. No. 64-136 P.)

QUANTITY: 398 cases, 24 1-lb. cans each, at New Haven, Conn.

SHIPPED: 9-2-59, from Ellwood, Md., by Albert W. Sisk & Son.

LABEL IN PART: (Can) "Pine Cone Brand Peeled Tomatoes * * * Albert W. Sisk and Son * * * Preston, Md. and Aberdeen, Md."

RESULTS OF INVESTIGATION: Inspection disclosed that C. Brooks Nagel, Ellwood, Md., was the packer of the article.

LIBELED: 11-4-59, Dist. Conn.

CHARGE: 402(a)(3)—contained fly eggs and maggots; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 3-24-60. Default—destruction.

26511. Canned tomatoes. (F.D.C. No. 43613. S. No. 4-721 P.)

QUANTITY: 361 cases, 24 1-lb. cans each, at Elizabeth City, N.C.

SHIPPED: 8-14-59, from Lancaster, Va., by A. W. Sisk & Son.

LABEL IN PART: (Can) "Red-Glo Tomatoes * * * Albert W. Sisk and Son Distributors * * * Preston, Md. and Aberdeen, Md."

LIBELED: 10-26-59, E. Dist. N.C.

CHARGE: 402(a)(3)—contained fly eggs and maggots; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 3-4-60. Consent—claimed by Lancaster Canning Co., Inc., Lancaster, Va. Segregated; 187½ cases destroyed.

26512. Canned tomatoes. (F.D.C. No. 43622. S. No. 64-135 P.)

QUANTITY: 99 cases, 24 1-lb. 11-oz. cans each, at New Haven, Conn.

SHIPPED: 9-2-59, from Preston, Md., by Albert W. Sisk & Son.

LABEL IN PART: (Can) "Pine Cone Brand Tomatoes * * * Albert W. Sisk and Son Distributors * * * Preston, Md. and Aberdeen, Md."

LIBELED: 10-31-59, Dist. Conn.

CHARGE: 402(a)(3)—contained fly eggs and maggots when shipped.

DISPOSITION: 3-25-60. Default—destruction.

26513. Canned tomatoes. (F.D.C. No. 44446. S. No. 8-661 R.)

QUANTITY: 316 cases, 24 1-lb. cans each, at Plattsburg, N.Y.

SHIPPED: 1-19-60, from Cambridge, Md., by Albert W. Sisk & Son.

LABEL IN PART: (Can) "Pine Cone Brand Tomatoes * * * Albert W. Sisk and Son Distributors * * * Preston, Md. and Aberdeen, Md."

LIBELED: 4-26-60, N. Dist. N.Y.

CHARGE: 402(a)(3)—contained flies, fly eggs, and maggots when shipped.

DISPOSITION: 6-15-60. Default—destruction.

26514. Canned tomatoes. (F.D.C. No. 44192. S. No. 90-397 P.)

QUANTITY: 23 cases, 6 6-lb. 6-oz. cans each, at Boston, Mass.

SHIPPED: 6-3-59, from Hanover, Pa., by Hanover Canning Co.

LABEL IN PART: (Can) "Hanover * * * Concentrated Tomatoes * * * Packed by Hanover Canning Co., Hanover, Pa."

LIBELED: 1-18-60, Dist. Mass.

CHARGE: 402(a)(3)—contained fly eggs and maggots when shipped.

DISPOSITION: 4-8-60. Default—destruction.

26515. Canned tomatoes. (F.D.C. No. 44082. S. No. 9-002 R.)

QUANTITY: 788 cases, 24 1-lb. cans each, at Buffalo, N.Y.

SHIPPED: 12-30-59, from Machipongo, Va., by Eastern Shore Canning Co.

LABEL IN PART: (Can) "Eastern Shore Brand Tomatoes * * * Packed by Eastern Shore Canning Company, Machipongo, Virginia."

LIBELED: 3-8-60, W. Dist. N.Y.

CHARGE: 402(a)(3)—contained fly eggs and maggots when shipped.

DISPOSITION: 5-4-60. Default—destruction.

26516. Canned tomatoes. (F.D.C. No. 44437. S. No. 36-622 R.)

QUANTITY: 38 cases, 24 #2½ cans each, and 87 cases, 6 #10 cans each, at Philadelphia, Pa.

SHIPPED: 3-14-60, from Greenwich, N.J., by R. S. Watson & Son.

LABEL IN PART: (Can) "Herald Brand Extra Standard Tomatoes * * * Net Contents 1 lb. 12 ozs. [or "6 lbs. 6 oz."] Distributors Githens, Rexsamer & Company, Inc., Philadelphia, Pa.—Baltimore, Md."

LIBELED: 4-22-60, E. Dist. Pa.

CHARGE: 402(a) (3)—contained fly eggs and maggots when shipped.

DISPOSITION: 5-25-60. Default—destruction.

26517. Canned tomatoes. (F.D.C. No. 44548. S. No. 6-929 R.)

QUANTITY: 220 cases, 24 1-lb. cans each, at Portland, Maine.

SHIPPED: 2-17-60, from Eastville, Va., by James & James.

LABEL IN PART: (Can) "Iona Tomatoes, * * * The Great Atlantic & Pacific Tea Co., New York, N.Y. Distributors."

LIBELED: 4-27-60. Dist. Maine.

CHARGE: 402(a) (3)—contained fly eggs and maggots when shipped.

DISPOSITION: 5-24-60. Default—destruction.

26518. Tomato catsup. (F.D.C. No. 44543. S. No. 93-151 P.)

QUANTITY: 72 cases, 6 7-lb. 2-oz. cans each, at Seattle, Wash.

SHIPPED: 1-11-60, from Hollister, Calif., by Hollister Canning Co.

LABEL IN PART: (Can) "West Best Brand Fancy Tomato Catsup * * * Distributed by The Commission Co., Inc., Seattle, Wash."

LIBELED: 4-25-60, W. Dist. Wash.

CHARGE: 402(a) (3)—contained decomposed tomato material when shipped.

DISPOSITION: 5-31-60. Default—delivered to a public institution for use as animal feed.

26519. Tomato puree. (F.D.C. No. 44390. S. No. 75-552 P.)

QUANTITY: 77 cases, 6 6-lb. 9-oz. cans each, at Chicago, Ill.

SHIPPED: 10-8-59, from Hollister, Calif., by Fair View Packing Co., Inc.

LABEL IN PART: (Can) "Teresa Brand * * * California Tomato Puree * * * Packed by Fair View Packing Co., Inc., Hollister * * * California."

LIBELED: 3-23-60, N. Dist. Ill.

CHARGE: 402(a) (3)—contained decomposed tomato material when shipped.

DISPOSITION: 4-25-60. Default—destruction.

26520. Tomato puree. (F.D.C. No. 44393. S. No. 36-401 R.)

QUANTITY: 41 cases, 24 1-lb. 13-oz. cans each, at Pennsauken, N. J.

SHIPPED: 2-18-60, from Bristol, Pa., by Delaware Valley Packing Co., Inc.

LABEL IN PART: (Can) "Penn's Manor Heavy Tomato Puree * * * Packed * * * by Delaware Valley Packing Co., Inc., Bristol, Pa."

LIBELED: 4-4-60, Dist. N. J.

CHARGE: 402(a) (3)—contained fly eggs and maggots when shipped.

DISPOSITION: 5-10-60. Default—destruction.

26521. Tomato puree. (F.D.C. No. 44444. S. No. 80-253 P.)

QUANTITY: 295 cases, 6 6-lb. 9-oz. cans each, at Toledo, Ohio.

SHIPPED: 12-30-59, from Hollister, Calif., by Fair View Packing Co., Inc.

LABEL IN PART: (Can) "Il Migliore Fancy Tomato Puree * * * Packed by Fair View Packing Co., Inc., Hollister * * * California."

LIBELED: 4-21-60, N. Dist. Ohio.

CHARGE: 402(a)(3)—contained decomposed tomato material when shipped.

DISPOSITION: 5-19-60. Default—destruction.

26522. Canned pizza sauce. (F.D.C. No. 44126. S. No. 18-201 R.)

QUANTITY: 60 cases, 6 #10 cans each, at Denver, Colo.

SHIPPED: 11-18-59, from Los Angeles, Calif., by California Pizza Crust Co., Inc.

LABEL IN PART: (Case) "Flotta Pizza Sauce, Packed by Flotill Products, Inc., Stockton, Calif."

LIBELED: 4-18-60, Dist. Colo.

CHARGE: 403(e)—when shipped, the article failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of contents; and 403(i)—its label failed to bear (1) the common or usual name of the food and (2) the common or usual name of each ingredient.

DISPOSITION: 5-25-60. Default—delivered to a public institution.

26523. Canned pizza sauce. (F.D.C. No. 43227. S. Nos. 9-671 P, 31-148 P.)

INFORMATION FILED: 10-16-59, Dist. N. J., against Uddo & Taormina Corp. of Vineland, Vineland, N.J., and Joseph Uddo, Jr., president.

SHIPPED: 9-25-58 and 9-29-58, from New Jersey to New York.

LABEL IN PART: (Can) "Progresso Pizza Sauce Net Wt. 1 Lb. 3 Ozs. Packed by Uddo & Taormina Co., Vineland, New Jersey."

CHARGE: 402(a)(3)—contained fly eggs, flies, maggots, insect fragments, and fly fragments.

PLEA: Guilty.

DISPOSITION: 2-5-60. Each defendant fined \$1,000 and placed on probation for 3 years.

NUTS AND NUT PRODUCTS

26524. Shelled brazil nuts. (F.D.C. No. 43835. S. No. 69-220 P.)

QUANTITY: 7 100-lb. bags at St. Paul, Minn.

SHIPPED: 10-19-59, from Chicago, Ill.

LIBELED: 11-30-59, Dist, Minn.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 3-2-60. Default—denatured for use as animal feed.

26525. Unshelled brazil nuts. (F.D.C. No. 43849. S. No. 70-913 P.)

QUANTITY: 20 cases, 24 1-lb. boxes each, at Cincinnati, Ohio.

SHIPPED: 10-13-59, from Chicago, Ill., by Robert L. Berner Co.

LABEL IN PART: (Case) "Trays Holiday Brand Brazil Nuts Home Service Tray Packed by Robert L. Berner Co. Chicago."

LIBELED: 11-30-59, S. Dist. Ohio.

CHARGE: 402(a)(3)—contained rancid, decomposed, shriveled nuts, and empty shells when shipped.

DISPOSITION: 1-6-60. Default—delivered to a public institution for use as animal feed.

26526. Unshelled brazil nuts. (F.D.C. No. 43847. S. No. 72-240 P.)

QUANTITY: 22 cases, 24 1-lb. pkgs. each, at Forest Park, Ga.

SHIPPED: 10-20-59, from Chico, Calif.

LIBELED: 11-27-59, N. Dist. Ga.

CHARGE: 402(a)(3)—contained insects, moldy, rancid, decomposed nuts, and empty shells while held for sale.

DISPOSITION: 1-6-60. Default—destruction.

26527. Unshelled brazil nuts. (F.D.C. No. 43961. S. No. 85-899 P.)

QUANTITY: 55 100-lb. bags at Jersey City, N.J.

SHIPPED: Prior to 9-17-59, from Brazil.

LIBELED: 12-15-59, Dist. N.J.

CHARGE: 402(a)(3)—contained insects, rancid, moldy, shriveled nuts, and empty shells while held for sale.

DISPOSITION: 2-26-60. Consent—claimed by J. F. Braun & Sons, New York, N.Y. Segregated; 4,208 lbs. denatured.

26528. Unshelled brazil nuts. (F.D.C. No. 43832. S. No. 68-861 P.)

QUANTITY: 26 cases, 24 1-lb. bags each, at St. Louis Park, Minn.

SHIPPED: 10-28-59, from Chicago, Ill., by Robert L. Berner Co.

LABEL IN PART: (Bag) "Spun Gold Fancy Nuts * * * Packed by Robert L. Berner Co., Chicago, Illinois."

LIBELED: 11-27-59, Dist. Minn.

CHARGE: 402(a)(3)—contained insects and moldy nuts when shipped.

DISPOSITION: 3-2-60. Default—denatured for use as animal feed.

26529. Unshelled brazil nuts. (F.D.C. No. 43960. S. No. 72-242 P.)

QUANTITY: 216 cases, 24 1-lb. boxes each, at Forest Park, Ga.

SHIPPED: 10-27-59, from New York, N.Y.

LIBELED: 12-10-59, N. Dist. Ga.

CHARGE: 402(a)(3)—contained insects, moldy, rancid, decomposed nuts, and empty shells while held for sale.

DISPOSITION: 2-8-60. Consent—claimed by J. F. Braun & Sons, New York, N.Y. Segregated; 169 lbs. denatured.

26530. Unshelled pinon nuts. (F.D.C. No. 43999. S. No. 58-657 P.)

QUANTITY: 42 100-lb. bags at Pueblo, Colo.

SHIPPED: 10-29-59, from Farmington, N. Mex.

LIBELED: 12-18-59, Dist. Colo.

CHARGE: 402(a)(3)—contained sheep manure while held for sale.

DISPOSITION: 1-26-60. Consent—claimed by Carl H. McCormick, t/a McCormick Distributing Co., Pueblo, Colo. Segregated; 184 lbs. destroyed.

26531. Unshelled pinon nuts. (F.D.C. No. 44075. S. No. 44-963 P.)

QUANTITY: 275 80-lb. bags at El Paso, Tex.

SHIPPED: 11-2-59, from Gallup, N. Mex.

LIBELED: 3-1-60, W. Dist. Tex.

CHARGE: 402(a)(3)—contained animal excreta while held for sale.

DISPOSITION: 3-21-60. Consent—claimed by Azar Bros., El Paso, Tex. Segregated; 17,147 lbs. were found fit for human consumption and remainder was destroyed.

26532. Unshelled almonds. (F.D.C. No. 44031. S. No. 45-660 P.)

QUANTITY: 7 45-lb. ctns. at Salt Lake City, Utah.

SHIPPED: 1-7-59, from Chico, Calif.

LIBELED: 1-13-60, Dist. Utah.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 4-5-60. Default—delivered to a public institution for use as animal feed.

26533. Unshelled peanuts. (F.D.C. No. 44112. S. No. 23-704 R.)

QUANTITY: 12 100-lb. bags at Kansas City, Mo., in possession of Guy's Nut & Potato Chip Co.

SHIPPED: 12-10-59, from Lincoln, Nebr.

LIBELED: 4-1-60, W. Dist. Mo.

CHARGE: 402(a)(3)—contained rodent urine and rodent excreta pellets; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 5-16-60. Default—delivered to a public institution for use as animal feed.

26534. Unshelled pecans. (F.D.C. No. 43981. S. No. 75-391 P.)

QUANTITY: 77 bags, 8,021 lbs. total, at Chicago, Ill.

SHIPPED: 11-16-59, from Montezuma, Ga.

LIBELED: 12-21-59, N. Dist. Ill.

CHARGE: 402(a)(3)—contained moldy, decomposed, and shriveled nuts while held for sale.

DISPOSITION: 2-1-60. Consent—claimed by Anton-Argires Bros. & Co., Inc., Chicago, Ill. Segregated; 5,010 lbs. destroyed.

26535. Unshelled pecans. (F.D.C. No. 44061. S. No. 67-190 P.)

QUANTITY: 53 100-lb. bags at Los Angeles, Calif.

SHIPPED: 11-4-59, from Grand Bay, Ala.

LIBELED: 2-10-60, S. Dist. Calif.

CHARGE: 402(a)(3)—contained insects and moldy nuts while held for sale.

DISPOSITION: 3-10-60. Consent—claimed by Los Angeles Nut House, Los Angeles, Calif. Segregated; 370 lbs. converted into animal feed.

26536. Shelled almonds, shelled filberts, and cereal. (F.D.C. No. 44010. S. Nos. 88-413/5 P.)

QUANTITY: 8 100-lb. bags of almonds, 3 110-lb. bags of filberts, and 40 50-lb. bags of cereal, at Louisville, Ky., in possession of Bradas & Gheens, Inc.

SHIPPED: Between 9-15-59 and 11-16-59, from New York, N.Y., and Paris, Ill.

LIBELED: 12-31-59, W. Dist. Ky.

CHARGE: 402(a)(3)—contained rodent urine and rodent excreta pellets, and rodent-chewed almonds and filberts; 402(a)(4)—held under insanitary conditions.

DISPOSITION: 3-31-60. Default—delivered to a public institution for use as animal feed.

26537. Shelled peanuts. (F.D.C. No. 43370. S. Nos. 22-699/700 P.)

QUANTITY: 212 bags, each containing 114¼ lbs., and 175 bags, each containing 114 lbs., at Lincoln, Nebr.

SHIPPED: 7-22-59 and 7-27-59, from Comanche and Fort Worth, Tex.

LIBELED: 8-28-59, Dist. Nebr.

CHARGE: 402(a)(3)—contained insects, insect excreta, insect-infested, and moldy nuts while held for sale.

DISPOSITION: 12-23-59. Consent—claimed by J. F. Garvey Co., Lincoln, Nebr. Segregated; 5,875 lbs. converted into animal feed.

26538. Shelled Spanish peanuts. (F.D.C. No. 44095. S. No. 84-081 P.)

QUANTITY: 73 125-lb. bags at Salt Lake City, Utah, in possession of S & E Distributing Co.

SHIPPED: 1-5-60, from Anadarko, Okla.

LIBELED: 4-5-60, Dist. Utah.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 5-25-60. Default—delivered to a public institution for use as animal feed.

26539. Cashew nuts. (F.D.C. No. 43872. S. No. 77-612 P.)

QUANTITY: 155 25-lb. tins at Detroit, Mich.

SHIPPED: 7-27-59 and 10-28-59, from New York, N.Y.

LIBELED: 12-7-59, E. Dist. Mich.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 1-11-60. Consent—claimed by J. F. Braun & Sons, New York, N.Y. Segregated; 100 lbs. denatured.

26540. Cashew nuts. (F.D.C. No. 44002. S. No. 49-211 P.)

QUANTITY: 100 cases, 2 25-lb. tins each, at San Francisco, Calif.

SHIPPED: 11-25-59, from New York, N.Y.

LIBELED: 12-22-59, N. Dist. Calif.

CHARGE: 402(a)(3)—contained insects and rodent excreta while held for sale.

DISPOSITION: 1-13-60. Consent—claimed by Sun Crown Food Corp., San Francisco, Calif. Segregated; 61 cans denatured.

26541. Cashew nuts. (F.D.C. No. 44207. S. No. 90-764 P.)

QUANTITY: 100 25-lb. cans at Hartford, Conn.

SHIPPED: 11-23-59, from New York, N.Y.

LIBELED: 2-2-60, Dist. Conn.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 3-24-60. Consent—claimed by J. F. Braun & Sons, New York, N.Y. Segregated; 500 lbs. denatured.

26542. Walnut meats. (F.D.C. No. 43819. S. No. 52-284 P.)

QUANTITY: 11 25-lb. cases at Minneapolis, Minn.

SHIPPED: 10-14-59, from San Jose, Calif.

LIBELED: 11-25-59, Dist. Minn.

CHARGE: 402(a) (3)—contained insects while held for sale.

DISPOSITION: 1-15-60. Consent—claimed by Santa Clara Nut Co., San Jose, Calif. Segregated; 4 lbs. destroyed.

26543. Pumpkin seeds. (F.D.C. No. 43980. S. No. 97-404 P.)

QUANTITY: 25 55-lb. boxes at Chicago, Ill.

SHIPPED: 9-4-59, from New York, N.Y.

LIBELED: 12-21-59, N. Dist. Ill.

CHARGE: 402(a) (3)—contained insects while held for sale.

DISPOSITION: 1-7-60. Consent—destruction.

OLEOMARGARINE

26544. Oleomargarine. (F.D.C. No. 44383. S. No. 36-455 R.)

QUANTITY: 318 1-lb. pkgs. at Atlantic City, N.J.

SHIPPED: 3-4-60, from Philadelphia, Pa., by C. W. Dunnet & Co.

LABEL IN PART: (Pkg.) "60 Pats Velcrest Margarine * * * Packed by C. W. Dunnet & Company, Philadelphia, Pa. * * * prepared from: hardened cottonseed and soybean oils, dried skim milk, water, salt, lecithin, mono and diglycerides and sodium sulfoacetate derivatives thereof, vitamin A added."

RESULTS OF INVESTIGATION: Examination showed the presence of sodium benzoate, an undeclared chemical preservative.

LIBELED: 3-23-60, Dist. N.J.

CHARGE: 403(g) (2)—when shipped, the label failed to bear, as required by the definition and standard of identity for margarine, the common name of the optional ingredient, sodium benzoate, present in the article; and 403(k)—contained sodium benzoate, a chemical preservative, and it failed to bear labeling stating that fact.

DISPOSITION: 5-11-60. Default—delivered to a charitable institution.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE*

26545. Vitamin B complex tablets. (F.D.C. No. 44175. S. No. 85-340 P.)

QUANTITY: 3 drums, 50,000 tablets total, and 200 50-tablet btls., at Edgewater, N.J., in possession of Excel Pharmacal Co.

SHIPPED: May 1959, from New York, N.Y., by Excel Pharmacal Co.

LABEL IN PART: (Drum) "Keto B Complex"; and (btl.) "Keto Vitamin B Complex Control No. 22 Keto Chemical Co., Inc. * * * New York * * * Each Tablet Provides: 333 International Units B₁ 2000 micrograms B₂ 125 micrograms B₆ 600 micrograms Pantothenic Acid 10 miligrams Nicotinic Acid

*See also No. 26458.

Plus all other factors of the Vitamin B Complex as extracted from brewer's yeast."

RESULTS OF INVESTIGATION: Analysis showed that the article contained approximately 50 percent of the declared amount of vitamin B₁ and approximately 88 percent of the declared amount of vitamin B₂. The article in the bottles was repacked by the dealer from bulk stock shipped as described above and the article in the drums was intended to be repackaged into bottles labeled as described above.

LIBELED: 1-11-60, Dist. N.J.

CHARGE: 402(b)(1)—while held for sale, the valuable constituents of the article (bulk and repacked) namely, vitamin B₁ and vitamin B₂, had been in part omitted or abstracted from the article; 403(a)—while held for sale, the label statement "Each tablet provides: 333 International Units B₁ 2000 micrograms B₂" was false and misleading; and 403(j)—when shipped, and while held for sale, the article (bulk and repacked) purported to be and was represented as a food for special dietary uses by reason of its vitamin content and its label failed to bear, as required by regulations, a statement of the proportion of the minimum daily requirement for vitamin B₁, vitamin B₂, and nicotinic acid supplied by such food when consumed in a specified quantity during a period of one day, and since the need for pantothenic acid in human nutrition has not been established, its label failed to bear the statement "The need for pantothenic acid in human nutrition has not been established."

DISPOSITION: 2-23-60. Default—delivered to charitable institutions.

26546. Vitamin capsules. (F.D.C. No. 43273. S. No. 49-436 P.)

QUANTITY: 207 31-capsule btls. at Seattle, Wash.

SHIPPED: 3-1-56, from Chicago, Ill.

RESULTS OF INVESTIGATION: Examination showed that the article contained approximately 60 percent of the declared amount of vitamin B₁₂ and approximately 79 percent of the declared amount of vitamin C.

LIBELED: 6-22-59, W. Dist. Wash.

CHARGE: 402(b)(1)—while held for sale, the valuable constituents, vitamin B₁₂ and vitamin C, had been in part omitted or abstracted from the article; and 403(a)—the label statement "* * * 5.00 mcg. Vitamin B₁₂ * * * 50.00 mg. Vitamin C * * *" was false and misleading.

DISPOSITION: 8-3-59. Default—destruction.

26547. Vitamin-mineral candy. (F.D.C. No. 43931. S. No. 85-322 P.)

QUANTITY: 43 ctns., each containing 12 individually cartoned btls., at New York, N.Y., in possession of Columbia Medical Co.

SHIPPED: 3-13-59, from Jersey City, N.J., by Bergen Pharmacal Co., Inc.

LABEL IN PART: (Btl. and ctn.) "Sixty Columbia Fruitti Vites The Vitamin-Mineral Candy For Children. A dietary supplement containing 11 vitamins and 11 minerals, specially prepared to taste like candy. Columbia Medical Company Distributors, New York, N.Y. Two Fruitti-Vites contain: * * * Vitamin D (Synthetic) 500 U.S.P. Units."

ACCOMPANYING LABELING: A number of loose labels as described above.

RESULTS OF INVESTIGATION: The article was repacked by the dealer from bulk stock shipped as described above. Examination showed that the article contained approximately 40 percent of the labeled amount of vitamin D.

LIBELED: 12-10-59, S. Dist. N.Y.

CHARGE: 402(b)(1)—the valuable constituent, vitamin D, had been in whole or in part omitted or abstracted from the article while held for sale; 403(a)—the label statement "Two Fruitti-Vites contain: * * * Vitamin D * * * 500 U.S.P. Units" was false and misleading as applied to the article which contained approximately 40 percent of the declared amount of vitamin D, the label statement "The Vitamin-Mineral Candy For Children" was false and misleading, since the article was not candy but was a special dietary food intended for supplementing the diet of children deficient in the specific vitamins and minerals which it contained, and the label statements "The daily requirements of vitamin B₂ * * * Niacinamide have not been established" and "The need for * * * copper, magnesium * * * potassium * * * in human nutrition has not been established" were false and misleading since the minimum daily requirement for vitamin B₂ and niacinamide and the need for copper, magnesium, and potassium in human nutrition have been established; and 403(j)—the article purported to be and was represented as a food for special dietary uses by reason of its vitamin and mineral content and its label failed to bear, as required by regulations, a statement of the minimum daily requirement for vitamin B₂ and niacinamide supplied by a specified quantity of the food when consumed during the period of 1 day by children.

DISPOSITION: 1-22-60. Default—destruction.

26548. Chamomile flowers. (F.D.C. No. 44397. S. No. 96-779 P.)

QUANTITY: 3 40-kilos bags at New York, N.Y., in possession of West Side Cold Storage Co., Inc.

SHIPPED: 5-6-59, from Chemille, France.

LIBELED: 3-31-60, S. Dist. N.Y.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 5-24-60. Default—destruction.

26549. Brown gravy (dietary). (F.D.C. No. 44546. S. No. 3-394 R.)

QUANTITY: 39 cases, 24 5-oz. jars each, at Washington, D.C.

SHIPPED: 3-15-60, from Woburn, Mass., by Schroeder Industries, Inc.

LABEL IN PART: (Jar) "Kitchen Quick Home Style Instant Brown Gravy * * * Contains No Meat or Fat Holiday Coffee Corp. Walpole, Mass. * * * 30 Servings of Low Calorie Tasty Brown Gravy."

LIBELED: 4-25-60, Dist. of Columbia.

CHARGE: 403(a)—when shipped, the label statement "Low Calorie Tasty Brown Gravy," was false and misleading, since the article was not low in calories; and 403(j)—the article purported to be and was represented as a food for special dietary use in the control of body weight, and its label failed to bear, as prescribed by regulations, a statement of the percent by weight of protein, fat, and available carbohydrates in such food; and the number of available calories supplied by a specified quantity of such food.

DISPOSITION: 5-25-60. Default—delivered to the local government for use in public institutions.

26550. Blessamin prenatal capsules. (F.D.C. No. 43309. S. No. 47-864 P.)

QUANTITY: 1 13,500-capsule drum, 4 cases, 24 90-capsule btls. each, and 2 cases, 24 240-capsule btls. each, at Stamford, Conn., in possession of Marvin R. Thompson, Inc.

SHIPPED: 10-21-58, from Worcester, Mass.

RESULTS OF INVESTIGATION: The article in the above-mentioned bottles had been repacked by the dealer from bulk stock shipped as described above. Examination showed that the article contained approximately 54 percent of the labeled amount of vitamin A.

LIBELED: On or about 7-28-59, Dist. Conn.

CHARGE: 402(b)(1)—while held for sale, the valuable constituent, vitamin A, had been in part omitted or abstracted from the article; 403(a)—the label statements "Vitamin A * * * 7500 Units" and "Vitamin A * * * 7500 U." were false and misleading; and 403(j)—the article was represented for special dietary use by reason of its vitamin and mineral content and its label failed to bear, as required by the regulations, a statement of the proportion of the minimum daily requirements of vitamin A, vitamin B₁, vitamin C, vitamin D, riboflavin, or niacin or niacinamide, and calcium, phosphorus, iron, or iodine, supplied by the article when consumed in a specified quantity during a period of one day.

DISPOSITION: 9-29-59. Default—delivered to a public institution for its use and not for sale.

INDEX TO NOTICES OF JUDGMENT F.N.J. NOS. 26451-26550

PRODUCTS

	N.J. No.		N.J. No.
Almonds, shelled-----	26536	Egg(s), frozen----- ¹	26476, 26478, 26479
unshelled-----	26532	incubator reject----- ²	26477
Apple pomace silage-----	26480	noodles-----	26460
Beans, green, canned-----	26493-26495	Filberts, shelled-----	26536
lima, dried-----	26498, 26503	Fish and shellfish-----	26482-26490
Blessamin prenatal capsules----	26550	Flour-----	26451-26457
Blueberries, frozen-----	26492	Fruits and vegetables----	26491-26523
Brazil nuts, shelled-----	26524	fruit, dried-----	26491
unshelled-----	26525-26529	frozen-----	26492
Carp, frozen-----	26488	tomatoes and tomato products-	26510-
Cashew nuts-----	26539-26541		26523
Cereals and cereal products----	26451-	vegetables and vegetable prod-	
	26472, 26536	ucts-----	26493-26509
Chamomile flowers-----	26548	Gherkins, sweet (pickles)-----	26508
Chickpeas-----	26472	Gravy, brown (dietary)-----	26549
Cornmeal-----	26466	Grits, hominy-----	26472
Cowpeas-----	26502	Haddock fillets, frozen----	26483, 26484
Crabmeat spread-----	26490	Halibut, frozen-----	26482
Dairy products-----	26473-26475	Hominy grits-----	26472

¹ (26476) Seizure contested. Contains findings of fact and conclusions of law.

² (26477) Injunction issued. Contains findings of fact and conclusions of law.

	N.J. No.		N.J. No.
Lettuce	26499	Pollock fillets, frozen	26485
Lima beans, dried	26498, 26503	Prunes, dried	26491
Macaroni and noodle products	26458-26460	Pumpkin, canned	26497
Meat scraps	26481	seeds	26543
Milk, condensed	26473	Raisins	26502
evaporated	26474, 26475	Relish, pickle, sweet	26506, 26507
Noodles. <i>See</i> Macaroni and noodle products.		Rice	26461-26466, 26503
Nuts and nut products	26524-26543	Shellfish. <i>See</i> Fish and shellfish.	
Oleomargarine	26544	Spanish peanuts, shelled	26538
Olives	26505	Spoonbill (fish), frozen	26488
Peanuts, shelled	26537	Tomato(es), canned	26510-26517
unshelled	26533	catsup	26518
Peas, canned	26496	puree	26519-26521
pigeon, dried	26503	Vegetables. <i>See</i> Fruits and vegetables.	
Pecans, unshelled	26534, 26535	mixed, pickled	26500, 26501
Pickle(s), dill, in brine	26509	Vitamin, mineral, and other products of special dietary significance	26545-26550
relish, sweet	26506, 26507	Walnut meats	26542
sweet	26507	Wheat	26467-26471
Pigeon peas, dried	26503	whole grain	26460
Pike, jack (fish), frozen	26489	Whitefish, frozen	26486, 26488
Pinon nuts, unshelled	26530, 26531	fillets, frozen	26487
Pinto beans, dried	26504		
Pizza sauce, canned	26522, 26523		

SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS

	N.J. No.		N.J. No.
A & P, Great, Tea Co.:		California Pizza Crust Co., Inc.:	
canned green beans	26493	canned pizza sauce	26522
canned tomatoes	26517	Canadian Fish Producers, Ltd.:	
Alexander Grocery Co.:		frozen whitefish	26486
cowpeas and raisins	26502	Carnation Co.:	
Allied Baking Co.:		evaporated milk	26474
flour	26455	Central Florida Foods, Inc.:	
Atlantic (boat):		rice	26465
frozen haddock fillets	26484	Columbia Medical Co.:	
Bergen Pharmacal Co.:		vitamin-mineral candy	26547
vitamin-mineral candy	26547	Commission Co., Inc.:	
Berner, Robert L., Co.:		tomato catsup	26518
unshelled brazil nuts	26525, 26528	Continental Grain Co.:	
Black Hills Packing Co.:		wheat	26471
meat scraps	26481	Delaware Valley Packing Co., Inc.:	
Borden Co.:		tomato puree	26520
condensed milk	26473	Diamond Transfer & Storage Warehouse Co.:	
Bradas & Gheens, Inc.:		rice	26464
shelled almonds, shelled filberts, and cereal	26536	Dorman, Alfred, Co.:	
California Conserving Co., Inc.:		flour	26453
sweet pickles and sweet pickle relish	26507		

	N.J. No.		N.J. No.
Dunnet, C. W., & Co.:		Krikorian, T. J., & Son, Inc.:	
oleomargarine-----	26544	dried pigeon peas, dried lima	
Eastern Shore Canning Co.:		beans, and rice-----	26503
canned tomatoes-----	26515	hominy grits and chickpeas---	26472
Economy Feed & Elevator Co.:		Lafleur, Lawrence:	
wheat-----	26471	sweet pickles and sweet pickle	
Excel Pharmacal Co.:		relish -----	26507
vitamin B complex tablets---	26545	Manhattan Pickle Co., Inc.:	
Fair View Packing Co., Inc.:		dill pickles in brine-----	26509
tomato puree-----	26519, 26521	Martindale Foods, Inc.:	
Farmers Elevator Co.:		canned green beans-----	26495
wheat-----	26470	Mayfair Packing Co.:	
Flotill Products, Inc.:		dried prunes-----	26491
canned pizza sauce-----	26522	Minor-Walton Bean Co.:	
Foremost Dairies, Inc.:		wheat -----	26469
evaporated milk-----	26475	Modern Egg Products, Inc.:	
Gallucci, F. L.:		frozen eggs----- ¹	26476
olives-----	26505	Monterey Beach Packing Co.,	
Gallucci, Gust, Co.:		Inc.:	
olives-----	26505	sweet pickle relish-----	26506
Giambanco Wine & Vinegar Co.:		Morgan Packing Co., Inc.:	
pickled mixed vegetables---	26500,	canned peas-----	26496
	26501	Nagel, C. B.:	
Githens, Rexsamer & Co., Inc.:		canned tomatoes-----	26510
canned tomatoes-----	26516	National Fruit Product Co., Inc.:	
Golden Grain Macaroni Co.:		apple pomace silage-----	26480
enriched macaroni-----	26458	Nestle Co.:	
Goodman Bros., Inc.:		condensed milk-----	26473
sweet gherkins (pickles) ----	26508	New York Central Railroad:	
Gragano Products Co.:		flour -----	26457
enriched macaroni-----	26458	Nova Scotia Blueberry Exporters	
Grand Trunk Western Railroad:		Co.:	
dried lima beans-----	26498	frozen blueberries-----	26492
Guy's Nut & Potato Chip Co.:		Owatonna Canning Co.:	
unshelled peanuts-----	26533	canned pumpkin-----	26497
Hampstead Packing Co.:		Parks, Curtis, Jr.:	
canned green beans-----	26493	incubator reject eggs----- ²	26477
Hanover Canning Co.:		Pierce, S. S., Co.:	
canned tomatoes-----	26514	sweet gherkins (pickles) ----	26508
Hercules Powder Co., Huron		Rosa B (boat):	
Milling Div.:		frozen haddock fillets-----	26483
flour-----	26452	S & E Distributing Co.:	
Hollister Canning Co.:		shelled Spanish peanuts-----	26538
tomato catsup-----	26518	Schroeder Industries, Inc.:	
James & James:		brown gravy (dietary)-----	26549
canned tomatoes-----	26517	Scottsborough Canning Co.:	
J. B. Junior (boat):		canned peas-----	26496
frozen haddock fillets-----	26484		

¹ (26476) Seizure contested. Contains findings of fact and conclusions of law.² (26477) Injunction issued. Contains findings of fact and conclusions of law.

	N.J. No.		N.J. No.
Sexton, John, & Co.:		Tung Hing Ling Co.:	
pickled mixed vegetables-----	26500	rice -----	26461
Shawano Canning Co.:		Uddo, Joseph, Jr.:	
canned green beans-----	26494	canned pizza sauce-----	26523
Silver, M. I.:		Uddo & Taormina Corp. of Vine-	
flour -----	26455	land:	
Simonds Shields Theis Grain Co.:		canned pizza sauce-----	26523
wheat -----	26467	van Lier, L. A.:	
Sisk, Albert W., & Son:		sweet pickle relish-----	26506
canned tomatoes-----	26510, 26513	Wallace Fruit & Vegetable Co.:	
Slade-Gorton Co.:		lettuce -----	26499
frozen pollock fillets-----	26485	Watson, R. S., & Son:	
Stegner, J. H., & Sons:		canned tomatoes-----	26516
flour -----	26454	Weeks Sales & Service, Inc.:	
Sunny State Distributing Co.:		meat scraps-----	26481
macaroni products-----	26459	Western Foods Corp.:	
Superior Eggs, Inc.:		egg noodles and whole grain	
frozen eggs-----	26478	wheat -----	26460
Swallow (boat):		West Side Cold Storage Co.,	
frozen haddock fillets-----	26484	Inc.:	
Technical Egg Products, Inc.:		chamomile flowers-----	26548
incubator reject eggs----- ²	26477	White Swan Institutional Foods	
Thompson, M. R., Inc.:		Co.:	
Blessamin prenatal capsules--	26550	dried pinto beans-----	26504
Tioga Farmers Grain Co.:		Winn-Dixie Stores, Inc.:	
wheat -----	26468	rice and cornmeal-----	26466
Tropical Produce, Inc.:			
dried prunes-----	26491		

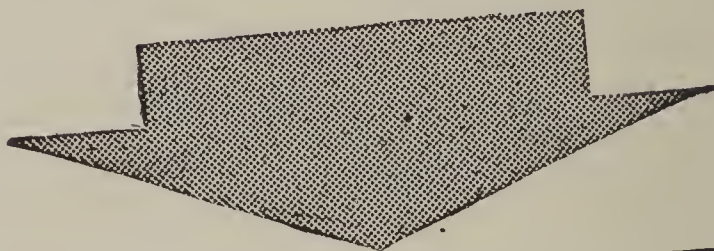
² (26477) Injunction issued. Contains findings of fact and conclusions of law.

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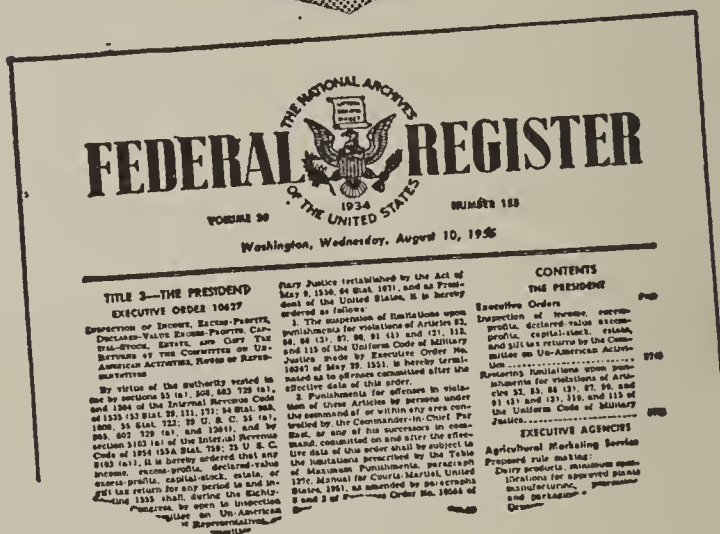
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NOV 8 - 1960

F.N.J., F.D.C. 26551-26600

Issued October 1960

U.S. Department of Health, Education, and Welfare

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

26551-26600

FOODS

The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were adulterated or misbranded within the meaning of the Act when introduced into and while in interstate commerce, or while held for sale after shipment in interstate commerce. These cases involve (1) seizure proceedings in which decrees of condemnation were entered by default, or by consent, and, in one case, following reversal by the appellate court of the judgment of the trial court, and (2) injunction proceedings terminated upon the entry of a permanent injunction by consent or by dismissal after a finding of compliance. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the injunction proceedings are against the *firms* or *individuals* charged to be responsible for violations.

Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D.C., October 13, 1960.

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SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN VIOLATIONS
REPORTED IN F.N.J. NOS. 26551-26600

Adulteration, Section 402(a) (2), the article, in two cases, contained an added poisonous or deleterious substance which was unsafe within the meaning of Section 406; and, in two cases, the article was a raw agricultural commodity and contained a pesticide chemical which was unsafe within the meaning of Section 408(a); Section 402(a) (3), the article consisted in part of a filthy or decomposed substance, or it was otherwise unfit for food; Section 402(a) (4), the article had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth; Section 402(b) (1), a valuable constituent had been in whole or in part omitted or abstracted from the article; Section 402(b) (2), a substance had been substituted in whole or in part for the article; Section 406(a), a poisonous or deleterious substance was added to food when such substance was not required in the production thereof and could have been avoided by good manufacturing practice; and Section 408(a), a poisonous or deleterious pesticide chemical had been added to a raw agricultural commodity and no tolerance or exemption from the requirement of a tolerance had been prescribed by the Secretary of Health, Education, and Welfare.

Misbranding, Section 403(a), the labeling of the article was false and misleading; Section 403(e) (2), the article was in package form, and it failed to bear a label containing an accurate statement of the quantity of contents in terms of weight, or numerical count; 403(f), a word, statement, or other information required by or under authority of the Act to appear on the label or labeling was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; Section 403(g) (1), the article purported to be and was represented as a food for which a definition and standard of identity had been prescribed by regulations, and it failed to conform to such definition and standard; Section 403(h) (1), the article purported to be and was represented as a food for which a standard of quality had been prescribed by regulations and it fell below such standard and its label failed to bear a statement that it fell below such standard; Section 403(j), the article purported to be and was represented for special dietary uses, and its label failed to bear such information concerning its vitamin, mineral, and other dietary properties as the Secretary determined to be, and by regulation prescribed as, necessary in order fully to inform purchasers as to its value for such uses.

CEREALS AND CEREAL PRODUCTS

FLOUR*

26551. Flour. (F.D.C. No. 41922. S. Nos. 903/4 P, 1-032/3 P.)

QUANTITY: 13 50-lb. bags, 33 50-lb. bags, 156 25-lb. bags, and 613 25-lb. bags at Griffin, Ga., in possession of Service Wholesale Co.

SHIPPED: Between 12-28-57 and 4-30-58, from Arkansas City, Kans.

LIBELED: 7-10-58, N. Dist. Ga.

CHARGE: 402(a) (3)—13- and 156-bag lots contained rodent urine; and 402 (a) (4)—all lots held under insanitary conditions.

DISPOSITION: 7-29-58. Consent—claimed by Service Wholesale Co. Segregated; 7,700 lbs. denatured for use as animal feed.

*See also No. 26560.

26552. Flour. (F.D.C. No. 44361. S. Nos. 96-992/3 P.)

QUANTITY: 315 100-lb. bags at Jersey City, N.J., in possession of Coulter & Coulter, Inc.

SHIPPED: 9-16-59 and 12-19-59, from Leavenworth, Kans., and Winona, Minn.

LIBELED: 3-2-60, Dist. N.J.

CHARGE: 402(a)(3)—contained rodent urine and rodent excreta pellets; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 4-11-60. Consent—claimed by Coulter & Coulter, Inc. Segregated; 105 bags denatured for use as animal feed.

26553. Flour. (F.D.C. No. 44409. S. Nos. 32-844/7 R.)

QUANTITY: 328 100-lb. bags, at North Bergen, N.J., in possession of S. Davis Co.

SHIPPED: Between 1-15-60 and 2-17-60, from Buffalo, N.Y., and Sheridan, Wyo.

LIBELED: 3-29-60, Dist. N.J.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 4-13-60. Consent—claimed by S. Davis Co., and denatured for use as animal feed.

26554. Flour. (F.D.C. No. 44100. S. Nos. 27-404/5 R.)

QUANTITY: 30 50-lb bags at Abbotsford, Wis., in possession of E. J. Crane & Sons.

SHIPPED: Between 5-5-59 and 9-22-59, from Minneapolis, Minn.

LIBELED: 3-23-60, W. Dist. Wis.

CHARGE: 402(a)(3)—contained insects and rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 4-29-60. Default—delivered to a public institution for use as animal feed.

26555. Flour. (F.D.C. No. 44455. S. Nos. 3-930/1 R.)

QUANTITY: 394 25-lb bags at Radford, Va., in possession of Gordon Dalton Co.

SHIPPED: 11-27-59, from Fort Wayne, Ind.

LIBELED: 5-13-60, W. Dist. Va.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 6-18-60. Consent—claimed by Harley Dalton, t/a Gordon Dalton Co., Radford, Va. Segregated; 199 bags denatured for use as animal feed.

26556. Flour and poppyseed. (F.D.C. No. 44104. S. Nos. 96-229 P, 28-101 R, 28-103 R.)

QUANTITY: 11 100-lb. bags of flour and 3 100-lb. bags of poppyseed, at Minneapolis, Minn.

SHIPPED: Between 2-3-58 and 2-2-60, from Holland, and Chicago, Ill.

LIBELED: 3-25-60, Dist. Minn.

CHARGE: 402(a)(2)—while held for sale, the articles contained a poisonous and deleterious substance, namely, lindane, which was unsafe within the meaning of 406, since this substance was not required in the production of this food and could be avoided by good manufacturing practice.

DISPOSITION: 5-11-60. Default—destruction.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS

26557. Unpopped popcorn. (F.D.C. No. 43388. S. No. 52-106 P.)

QUANTITY: 600,000 lbs. at Sac City, Iowa, in possession of Hy-Pop, Inc.

SHIPPED: During October and November 1958, from States adjoining Iowa.

LIBELED: 7-15-59, N. Dist. Iowa.

CHARGE: 402(a)(3)—contained rodent urine and rodent excreta pellets; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 8-1-59. Consent—claimed by Hy-Pop, Inc., Sac City, Iowa. Segregated; 71,500 lbs. converted into animal feed.

26558. Unpopped popcorn, dried currants, dried chickpeas, dried mung beans, and cornmeal. (F.D.C. No. 43927. S. Nos. 63-914/9 P, 90-362 P.)

QUANTITY: 62 100-lb. bags of unpopped popcorn, 600 50-lb. bags of dried currants, 60 100-lb. bags of dried chickpeas, 10 200-lb. bags and 465 100-lb. bags of dried mung beans, and 54 50-lb. bags of cornmeal, at Charlestown, Mass., in possession of Hoosac Storage & Warehouse Co.

SHIPPED: The popcorn was shipped from Chicago, Ill., between 7-1-59 and 8-26-59, the cornmeal was shipped from Milwaukee, Wis., on 4-2-59, the mung beans were imported from Thailand on 5-20-55, the chickpeas were imported from Portugal on an unknown date, and the currants were imported from Greece on an unknown date.

LIBELED: 11-25-59, Dist. Mass.

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: Mung beans: 12-22-59. Consent—claimed by Hung's Food Products, Inc., Boston, Mass. Segregated; 35 100-lb. bags denatured. Popcorn, currants, chickpeas, and cornmeal: 1-18-60. Default—destruction.

26559. Unpopped popcorn. (F.D.C. No. 44071. S. Nos. 69-247/50 P.)

QUANTITY: 202,200 lbs. at Wall Lake, Iowa.

SHIPPED: 1-6-60 and 1-7-60, from Boone, Colo., by John Basgal.

LIBELED: 2-23-60, N. Dist. Iowa.

CHARGE: 402(a)(3)—contained rodent urine, rodent excreta, and bird excreta when shipped.

DISPOSITION: 3-4-60. Consent—claimed by National Oats Co., Wall Lake, Iowa. Segregated; 79,120 lbs. converted into animal feed.

26560. Rice, flour, grits, and unshelled peanuts. (Inj. No. 360.)

COMPLAINT FOR INJUNCTION FILED: 8-18-59, S. Dist. Ga., against the Coastal Bonded Warehouse, a partnership, Savannah, Ga., and Lawrence Elman and Irving Rubin, partners.

CHARGE: The complaint alleged that the defendants were engaged in the business of storing in their warehouse various foods such as rice, flour, grits, unshelled peanuts, and other food products commonly stored in food warehouses; that the defendants had been and were placing and causing to be placed in their warehouse which was infested with rodents and open to birds and had been and were exposing and causing to be exposed to contamination by rodents and birds in the warehouse such articles of food; that such acts by the defendants resulted in the foods being adulterated

within the meaning of 402(a)(4) in that the foods were held under insanitary conditions whereby they may have become contaminated with filth; and that such insanitary conditions consisted of and resulted from the presence of live and dead rodents and live birds in the warehouse, rodent burrows along the walls inside the warehouse, rodent burrows outside the warehouse adjacent to the loading dock, numerous holes in the walls and floors of the warehouse, numerous rodent pellets and rodent tracks in various areas of the warehouse, and broken window panes permitting ingress and egress to birds.

The complaint alleged also that the defendants were causing quantities of a water solution of a poisonous rodenticide known as "1080" and consisting of sodium monofluoracetate to be placed in and about the warehouse under conditions whereby the foods in the warehouse may have become contaminated with poison; that the acts of the defendants in causing the "1080" to be placed in the warehouse resulted in the foods in the warehouse being adulterated under 402(a)(4) because of being held under insanitary conditions whereby they may have been rendered injurious to health; and that such insanitary conditions resulted from and consisted of the placement of uncovered bait cups containing a water solution of "1080" in and about the warehouse and in close proximity to the foods.

It was alleged also that the defendants were well aware that their activities were violative of the law; that inspections were made of the defendants' warehouse on 4-1-59 and 4-14-59, at which times the defendants were warned of the insanitary conditions existing in the warehouse; and that despite such warnings, the defendants failed to correct the insanitary conditions in the warehouse.

DISPOSITION: 11-2-59. The defendants having consented, the court entered a decree of permanent injunction against the defendants enjoining them (1) from doing or causing any act to be done with respect to articles of food while held for sale after shipment in interstate commerce which would result in such articles being held under insanitary conditions whereby they may have become contaminated with filth; and (2) from placing or causing to be placed any of such articles of food in the defendants' warehouse unless and until such warehouse was thoroughly cleaned and rendered suitable for the storage of food and an inspection made of the warehouse by an authorized representative of the Food and Drug Administration and a report submitted to the court showing that the insanitary conditions in the warehouse no longer existed.

The decree also enjoined and restrained the defendants from directly or indirectly disposing of any articles of food being held in the warehouse after shipment in interstate commerce unless and until such foods were examined and the portions thereof which were contaminated by rodent, bird, or other filth, or by rodenticide, or whose containers had become contaminated with such filth or such rodenticide be destroyed, denatured for use as animal feed, or cleaned or otherwise reconditioned under the supervision of the Food and Drug Administration.

26561. Rice. (F.D.C. No. 42374. S. No. 24-447 P.)

QUANTITY: 112 50-lb. bags at Los Angeles, Calif.

SHIPPED: 1-23-58, from Beaumont, Tex.

LIBELED: 12-8-58, S. Dist. Calif.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 12-29-58. Consent—claimed by Wing Chong Lung Co., Los Angeles, Calif. Segregated; 13 lbs. destroyed.

26562. Rice. (F.D.C. No. 42386. S. Nos. 24-448 P, 24-452 P.)

QUANTITY: 97 50-lb. bags at Los Angeles, Calif., in possession of Kwong On Lung Importers.

SHIPPED: 8-12-58, from Beaumont, Tex.

LIBELED: 12-9-58, S. Dist. Calif.

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 1-5-59. Consent—claimed by Kwong On Lung Importers. Segregated; 22 lbs. destroyed.

26563. Rice. (F.D.C. No. 42992. S. No. 61-040 P.)

QUANTITY: 19 bales, 30 2-lb. bags each, at Detroit, Mich.

SHIPPED: 4-22-58, from Stuttgart, Ark.

LIBELED: 4-27-59, E. Dist. Mich.

CHARGE: 402(a)(3)—contained insects and insect fragments while held for sale.

DISPOSITION: 8-13-59. Default—destruction.

26564. Rice. (F.D.C. No. 44151. S. Nos. 57-177/8 P, 87-802/3 P.)

QUANTITY: 10 100-lb. bags and 82 25-lb. bags at Florence, S.C., in possession of Massey-Hite Grocery Co., Inc.

SHIPPED: Between 9-12-59 and 11-10-59, from Houston, Tex.

LIBELED: 1-2-60, E. Dist. S.C.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 2-1-60. Default—destruction.

26565. Wheat. (F.D.C. No. 41528. S. Nos. 41-753 P, 41-756 P.)

QUANTITY: 120,000 lbs. at Auburn, Wash.

SHIPPED: 3-26-58, from Terry, Mont., by Occident Elevator.

LIBELED: 4-25-58, W. Dist. Wash.

CHARGE: 402(a)(2)—the article was a raw agricultural commodity, and when shipped, contained a pesticide chemical, namely, a mercurial compound, which is unsafe within the meaning of 408 since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat has been prescribed by regulations.

DISPOSITION: 5-5-58. Consent—claimed by Occident Elevator, Div. of Russell-Miller Milling Co., Minneapolis, Minn. Segregated; 2,530 lbs. destroyed.

26566. Wheat. (F.D.C. No. 43196. S. No. 76-592 P.)

QUANTITY: 124,250 lbs. at Spokane, Wash.

SHIPPED: 6-9-59, from Roundup, Mont., by Roundup Elevator Co.

LIBELED: 6-26-59, E. Dist. Wash.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 7-6-59. Consent—claimed by W. R. Glover, t/a Glover Grain Co., Spokane, Wash. Segregated; 15,900 lbs. converted into animal feed.

26567. Wheat (2 seizure actions). (F.D.C. Nos. 44424, 44441. S. Nos. 21-385 R, 21-666 R.)

QUANTITY: 215,400 lbs. at Baltimore, Md.

SHIPPED: 3-22-60 and 4-6-60, from Swartz Creek, Mich., by Swartz Creek Elevator & Lumber Co.

LIBELED: 4-4-60 and 4-20-60, Dist. Md.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 4-28-60. Consent—claimed by C. H. Runciman Co., Lowell, Mich., and converted into animal feed.

26568. Wheat. (F.D.C. No. 44449. S. No. 40-686 R.)

QUANTITY: 110,000 lbs. at St. Louis, Mo.

SHIPPED: 4-22-60, from Minneapolis, Minn., by Osborne-McMillan Elevator Co.

LIBELED: 5-5-60, E. Dist. Mo.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 5-5-60. Consent—claimed by Osborne-McMillan Elevator Co., and denatured for use as animal feed.

26569. Wheat. (F.D.C. No. 44448. S. Nos. 14-685/6 R.)

QUANTITY: 213,800 lbs. at Evansville, Ind.

SHIPPED: 4-14-60, from Mount Carmel, Ill., by Igleheart Bros.

LIBELED: On or about 5-10-60, S. Dist. Ind.

CHARGE: 402(a)(2)—the article was a raw agricultural commodity and, when shipped, contained a pesticide chemical, namely, a mercurial compound, which is unsafe within the meaning of 408 since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat has been prescribed by regulations.

DISPOSITION: 5-10-60. Default—destruction.

COCOA PRODUCTS, CONFECTIONERY, AND SUGAR

COCOA PRODUCTS*

26570. Cocoa beans. (F.D.C. No. 43910. S. Nos. 76-758/9 P.)

QUANTITY: 30 160-lb. bags and 246 140-lb. bags at Seattle, Wash., in possession of Washington Chocolate Co., Inc.

SHIPPED: 12-8-58 and 5-6-59, from San Francisco, Calif., and New York, N.Y.

LIBELED: 11-12-59, W. Dist. Wash.

CHARGE: 402(a)(3)—contained insects and rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 11-30-59. Consent—claimed by Washington Chocolate Co., Inc. Segregated; 366 lbs. destroyed and 2,874 lbs. converted for use as fertilizer.

26571. Cocoa powder. (F.D.C. No. 43328. S. No. 32-859 P.)

QUANTITY: 10 88-lb. bags at Fairview, N.J.

SHIPPED: 1-21-59, from New York, N.Y., by Compex Corp.

LABEL IN PART: "Danish Low-Fat Cocoa Powder * * * Product of Denmark Compex Corp. New York, N.Y."

*See also No. 26596.

RESULTS OF INVESTIGATION: Examination showed that the article contained in excess of 20 percent shell by weight.

LIBELED: 8-3-59, Dist. N.J.

CHARGE: 402(b)(2)—when shipped, cacao shell had been substituted in part for low-fat cocoa; and 403(g)(1)—the article failed to conform to the definition and standard of identity for low-fat cocoa since it contained more cacao shell than is present in low-fat cocoa.

DISPOSITION: 9-14-59. Default—destruction.

26572. Cocoa press cake. (F.D.C. No. 44169. S. No. 85-575 P.)

QUANTITY: 143 155-lb. bags at Brooklyn, N.Y.

SHIPPED: Prior to 4-14-59, from outside the United States.

LIBELED: 1-19-60, E. Dist. N.Y.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 4-14-60. Consent—claimed by Ernest Adler Co., Inc., New York, N.Y., and denatured for shipment to Holland.

26573. Cocoa and vegetable fat coating. (F.D.C. No. 44419. S. Nos. 96-990/1 P.)

QUANTITY: 34 56-lb. cases and 46 50-lb. cases at Hoboken, N.J.

SHIPPED: Prior to September 1958, from Bucks, England, and Lititz, Pa.

LIBELED: 4-4-60, Dist. N.J.

CHARGE: 402(a)(3)—while held for sale, the articles were unfit for food by reason of having little or no chocolate flavor, possessing an off-odor and a strong, foreign taste, thereby rendering them unpalatable and unfit for food.

DISPOSITION: 5-12-60. Default—destruction.

CONFECTIONERY

26574. Candy. (F.D.C. No. 44400. S. Nos. 96-896/7 P.)

QUANTITY: 185 cases, 48 14-oz. bags each, at New York, N.Y., in possession of West Side Cold Storage Co., Inc.

SHIPPED: 4-17-57, from Stratford, England.

LIBELED: 3-31-60, S. Dist. N.Y.

CHARGE: 402(a)(3)—contained a decomposed substance while held for sale; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 5-4-60. Default—destruction.

26575. Pascall English Sweets. (F.D.C. No. 44403. S. No. 96-946 P.)

QUANTITY: 25 cases, 12 24-oz. jars each, at Bronx, N.Y.

SHIPPED: 4-3-59 and 8-5-59, from London, England.

RESULTS OF INVESTIGATION: Examination showed the article to be short weight.

LIBELED: 4-5-60, S. Dist. N.Y.

CHARGE: 403(e)(2)—while held for sale, the article failed to bear a label containing an accurate statement of the quantity of the contents; and 403(f)—the net weight and ingredient statements required by the Act to appear on the label were not prominently placed thereon with such conspicuousness (as compared with other words, statements, and designs, or devices, in the labeling) as to render them likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

DISPOSITION: 4-20-60. Consent—claimed by Cresca Co., Inc., Bronx, N.Y., and repacked to the correct weight.

SUGAR

26576. Sugar, corn grits, and cornmeal. (Inj. No. 355.)

COMPLAINT FOR INJUNCTION FILED: 5-14-59, S. Dist. Ga., against John C. Helmken & Co., a partnership, Savannah, Ga., and William H. Helmken, and John C. Helmken, Jr., partners.

CHARGE: The complaint alleged that the defendants were engaged in the operation of a wholesale grocery business and in connection therewith were leasing a warehouse for use in the storage of various foods after they had been shipped in interstate commerce; and that the defendants had been causing and permitting foods such as sugar, corn grits, and cornmeal to be placed and held in the warehouse after shipment in interstate commerce, and to be exposed to contamination in the warehouse by rodents and insects.

The complaint alleged further (1) that the acts of placing and holding such foods in the warehouse resulted in such foods being adulterated within the meaning of 402(a)(3) in that the foods consisted in part of a filthy substance by reason of the presence of rodent urine, rodent hairs, rodent excreta, and insects, and within the meaning of 402(a)(4) in that the foods were being held under insanitary conditions; and (2) that the insanitary conditions in the warehouse resulted from and consisted of hundreds of old and fresh appearing rat pellets scattered over the entire floor area and accumulated along the walls of the warehouse; an accumulation of distressed merchandise in various areas of the warehouse containing rodent-gnawed containers of such products as sugar, corn grits, and cornmeal, live and dead insects, namely, tribolium and saw tooth grain beetles, in such food, the storage of distressed merchandise in close proximity to salable lots of food, rendering such salable food susceptible to insect and rodent contamination; openings around doors and metal siding permitting easy ingress and egress by rodents and insects; numerous rodent harborages adjacent to said warehouse, as well as an accumulation of empty boxes, lumber and miscellaneous debris inside the warehouse, providing harborage areas for rodents and insects; and other similar insanitary conditions.

The complaint alleged also that the individual partners were well aware that their activities were violative of the Act; that inspections were made of the warehouse by the Food and Drug Administration on 1-16-58, 5-14-58, 5-15-58, 7-15-58, 9-18-58, and 2-3-59, at which times the defendants were warned of the insanitary conditions in the warehouse; and that despite such warnings, the defendants failed to correct the insanitary conditions in the warehouse.

DISPOSITION: The case came on for hearing before the court pursuant to an order to show cause why the injunction should not be granted. It thereupon appearing that the conditions complained of in the complaint had been corrected, an order was entered on 7-6-59, for the dismissal of the complaint.

26577. Sugar. (F.D.C. No. 43406. S. No. 79-582 P.)

QUANTITY: 950 100-lb. bags at Detroit, Mich., in possession of Edgar's Warehouses, Inc.

SHIPPED: During 1958 and 1959, from New York, N.Y.

LIBELED: 7-24-59, E. Dist. Mich.; libel amended 8-21-59.

CHARGE: 402(a)(3)—contained extraneous materials such as cord, hair, bits of wood, string, broomstraws, plaster, and floor dirt; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 9-9-59. Consent—claimed by Edgar's Warehouses, Inc., and re-refined.

26578. Sugar. (F.D.C. No. 43906. S. No. 56-933 P.)

QUANTITY: 469 bags of varying weights ranging from 60 to 120 lbs., at Mount Olive, N.C.

SHIPPED: Between 8-18-59 and 9-30-59, from Charleston, S.C.

RESULTS OF INVESTIGATION: The article had been stored under insanitary conditions at the Union Pier Terminal Warehouse, Charleston, S.C.

LIBELED: 12-16-59, E. Dist. N.C.

CHARGE: 402(a)(3)—contained live ants and miscellaneous dirt; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 4-22-60. Consent—claimed by Olavarria & Co., Inc., New York, N.Y., and re-refined.

DAIRY PRODUCTS

BUTTER

26579. Butter. (F.D.C. No. 41136. S. No. 79-998 P.)

QUANTITY: 50 60-lb. ctns. at Toledo, Ohio.

SHIPPED: 6-24-59, from Montgomery, Mich., by Tri-State Co-operative Association.

LABEL IN PART: "Ch. No. 381 [or "399"] * * * Tri-State Co-operative Assn. Inc. Montgomery, Mich."

LIBELED: 7-13-59, N. Dist. Ohio.

CHARGE: 402(b)(2)—when shipped, a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: 8-7-59. Consent—claimed by Tri-State Co-operative Association, and reworked to bring into compliance with the law.

26580. Butter. (F.D.C. No. 41133. S. Nos. 60-993 P, 61-071 P.)

QUANTITY: 50 60-lb. ctns. at Toledo, Ohio.

SHIPPED: 6-3-59, from Montgomery, Mich., by Tri-State Co-operative Association.

LIBELED: 7-8-59, N. Dist. Ohio.

CHARGE: 402(b)(2)—when shipped, a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: 8-7-59. Consent—claimed by Tri-State Co-operative Association, and reworked.

MILK

26581. Evaporated milk. (F.D.C. No. 44121. S. No. 41-507 R.)

QUANTITY: 350 cases, 48 14½-oz. cans each, at Agana, Guam.

SHIPPED: 3-21-60, from Los Angeles, Calif., by Carnation Co.

LABEL IN PART: (Can) "Carnation Evaporated Milk * * * Carnation Company, Los Angeles, Calif."

RESULTS OF INVESTIGATION: Examination showed that the article was contaminated with poisonous and deleterious substances, namely, DDT, DDE, and TDE.

LIBELED: 4-14-60, Dist. Guam.

CHARGE: 402(a)(2)—when shipped, the article contained added poisonous and deleterious substances, namely, DDT, DDE, and TDE, which are unsafe within the meaning of 406 since these are substances not required in the production of this food and can be avoided by good manufacturing practice.

DISPOSITION: 5-25-60. Consent—claimed by Carnation Co., Los Angeles, Calif., and destroyed.

FRUITS AND VEGETABLES

DRIED FRUIT*

26582. Raisins. (F.D.C. No. 43153. S. No. 55-165 P.)

QUANTITY: 990 33-lb. ctns. at Philadelphia, Pa.

SHIPPED: 1-15-59, from Greece, by Michel Tzoulakis & Co., Ltd.

LABEL IN PART: "F.I.C. Special Choice Natural Sultanas, Typed No. 11, Krop 1958 * * * Produce of Greece Sonnermarke * * * Packed & Shipped by Michel Tzoulakis & Co. Ltd., Iraklion-Crete-Greece."

LIBELED: 5-19-59, E. Dist. Pa.

CHARGE: 402(a)(3)—contained insect parts and rodent hairs when shipped.

DISPOSITION: 6-11-59. Consent—claimed by Horn & Hardart Baking Co., Philadelphia, Pa., and reconditioned.

26583. Raisins. (F.D.C. No. 44399. S. No. 96-894 P.)

QUANTITY: 1,222 30-lb. ctns. at New York, N.Y., in possession of West Side Cold Storage Co., Inc.

SHIPPED: 1-8-59 and 1-19-59, from Montreal, Canada.

LIBELED: 3-31-60, S. Dist. N.Y.

CHARGE: 402(a)(3)—contained a decomposed substance; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 4-15-60. Consent—claimed by Waldorf Pound Cake Co., Inc., New York, N.Y. Segregated; 80 cases destroyed.

VEGETABLES*

26584. Canned green beans. (F.D.C. No. 43874. S. No. 80-056 P.)

QUANTITY: 11,000 cases, 24 12-oz. cans each, at Grand Rapids, Mich.

SHIPPED: Between 8-24-59 and 9-9-59, from Green Bay, Wis.

RESULTS OF INVESTIGATION: Examination showed that the article was undergoing progressive decomposition.

LIBELED: 12-8-59, W. Dist. Mich.; libel amended 12-31-59.

CHARGE: 402(a)(3)—contained a decomposed substance while held for sale.

DISPOSITION: 1-8-60. Consent—claimed by Larsen Co., Green Bay, Wis. Segregated; 8,451 cases destroyed.

26585. Canned green beans. (F.D.C. No. 43873. S. No. 78-288 P.)

QUANTITY: 7,450 cases, 24 12-oz. cans each, at Toledo, Ohio.

SHIPPED: Between 8-17-59 and 8-19-59, from Green Bay, Wis.

*See also No. 26558.

RESULTS OF INVESTIGATION: Examination showed that the article was undergoing progressive decomposition.

LIBELED: 12-8-59, N. Dist. Ohio.

CHARGE: 402(a)(3)—contained a decomposed substance while held for sale.

DISPOSITION: 2-1-60. Consent—claimed by Larsen Co., Green Bay, Wis. Segregated; 4,593 cases destroyed.

26586. Canned cut green beans. (F.D.C. No. 44552. S. No. 3-464 R.)

QUANTITY: 179 cases, 24 15½-oz. cans each, at Charleston, W. Va.

SHIPPED: 2-16-60, from Lawrence, Mich., by Lawrence Packing Co.

LABEL IN PART: (Can) "Lawrence Cut Green Beans * * * Distributed by Lawrence Packing Co., Lawrence, Mich."

LIBELED: On or about 5-3-60, S. Dist. W. Va.

CHARGE: 403(h)(1)—when shipped, the article purported to be and was represented as canned cut green beans, and its quality fell below the standard prescribed by regulations since the deseeded pods contained more than 0.15 percent by weight of fibrous material and its label failed to bear, as prescribed by regulations, a statement that it fell below such standard.

DISPOSITION: 6-2-60. Default—delivered to charitable institutions.

26587. Dried lima beans. (F.D.C. No. 44083. S. Nos. 96-633 P, 96-641 P.)

QUANTITY: 245 100-lb. bags, 248 cases, 12 2-lb. pkgs. each, and 257 cases, 24 1-lb. pkgs. each, at Greeley, Colo.

SHIPPED: 1-12-60, from Crows Landing, Calif., by John F. Grisez Co.

LABEL IN PART: (Bag) "Large Lima Beans * * * John F. Grisez Co." and (pkg.) "Smith's California Large Lima Beans * * * Allen V. Smith, Inc. * * * Marcellus Falls, New York."

RESULTS OF INVESTIGATION: The article in the packages was repacked by the dealer from bulk stock shipped as described above.

LIBELED: 3-9-60, Dist. Colo.

CHARGE: 402(a)(3)—contained rodent urine when shipped.

DISPOSITION: 4-4-60. Consent—claimed by Allen V. Smith, Inc. Segregated; 972 lbs. destroyed.

26588. Lentils. (F.D.C. No. 43430. S. No. 40-700 P.)

QUANTITY: 15 100-lb. bags at Turlock, Calif., in possession of Roy M. Day.

SHIPPED: 12-14-57, from Kimberly, Idaho.

LIBELED: 8-21-59, N. Dist. Calif.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 5-9-60. Default—destruction.

TOMATOES AND TOMATO PRODUCTS

26589. Canned tomatoes. (F.D.C. No. 42957. S. No. 35-578 P.)

QUANTITY: 120 cases, 24 1-lb. 3-oz. cans each, at Scranton, Pa.

SHIPPED: 2-11-59, from Middleport, N.Y., by Longview Farms, Inc.

LABEL IN PART: (Can) "A&P * * * Tomatoes * * * The Great Atlantic and Pacific Tea Company, New York, N.Y. Distributors."

LIBELED: 3-24-59, M. Dist. Pa.

CHARGE: 402(a)(3)—contained decomposed tomato material when shipped.

DISPOSITION: 6-8-59. Default—destruction.

26590. Canned tomatoes. (F.D.C. No. 43948. S. No. 75-309 P.)

QUANTITY: 1,779 cases, 24 1-lb. cans each, at Chicago, Ill.

SHIPPED: 10-12-59 and 10-17-59, from Royal Center, Ind., by Indiana Packing Co.

LABEL IN PART: (Can) "Raggedy Ann * * * Tomatoes * * * Raggedy Ann Corporation * * * Chicago."

LIBELED: 12-7-59, N. Dist. Ill.

CHARGE: 402(a)(3)—contained decomposed tomato material when shipped.

DISPOSITION: 2-24-60. Consent—claimed by Zimonick Bros. Co., Green Bay, Wis., and destroyed.

26591. Canned tomatoes. (F.D.C. No. 44172. S. No. 47-197 P.)

QUANTITY: 528 cases, 24 1-lb. cans each, at Chicago, Ill.

SHIPPED: 12-7-59, from Green Bay, Wis., by Zimonick Bros. Co.

LABEL IN PART: (Can) "Raggedy Ann * * * Tomatoes * * * Raggedy Ann Corporation * * * Chicago."

LIBELED: 1-8-60, Dist. Ill.

CHARGE: 402(a)(3)—contained decomposed tomato material when shipped.

DISPOSITION: 2-24-60. Consent—claimed by Zimonick Bros. Co., and destroyed.

26592. Tomato catsup. (F.D.C. No. 44559. S. No. 36-452 R.)

QUANTITY: 449 cases, 24 14-oz. btls. each, at Philadelphia, Pa.

SHIPPED: 2-9-60, from Hammonton, N.J., by C. & E. Cannery, Inc.

LABEL IN PART: (Btl.) "Ideal Hot Tomato Catsup * * * Distributed by American Stores Co., Phila., Pa."

LIBELED: 5-3-60, E. Dist. Pa.

CHARGE: 402(a)(3)—contained fly eggs and maggots when shipped.

DISPOSITION: 6-9-60. Default—destruction.

26593. Tomato puree. (F.D.C. No. 44430. S. Nos. 75-553/4 P.)

QUANTITY: 186 cases, 6 6-lb. 9-oz. cans each, at Chicago, Ill.

SHIPPED: 11-4-59, from Hollister, Calif., by Fair View Packing Co., Inc.

LABEL IN PART: (Can) "Teresa Brand Heavy Concentrated Tomato Puree * * * Packed by Fair View Packing Co., Inc., Hollister * * * California."

LIBELED: 4-14-60, N. Dist. Ill.

CHARGE: 402(a)(3)—contained decomposed tomato material when shipped.

DISPOSITION: 5-16-60. Default—destruction.

NUTS*

26594. Shelled peanuts. (F.D.C. No. 43429. S. Nos. 62-711/2 P, 79-898/900 P.)

QUANTITY: 1,200 125-lb. bags at Detroit, Mich.

SHIPPED: Between 6-18-59 and 6-29-59, from Cordele, Ga.

LIBELED: 8-19-59, E. Dist. Mich; libel amended 8-25-59.

*See also No. 26560.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 9-21-59. Consent—claimed by Velvet Peanut Products Div. of Sunshine Biscuit, Inc., Detroit, Mich. The article was sorted, cleaned, and converted into peanut butter.

26595. Shelled peanuts. (F.D.C. No. 43340. S. Nos. 62-708 P, 62-710 P, 79-895/7 P.)

QUANTITY: 1,989 125-lb. bags at Detroit, Mich.

SHIPPED: Between 5-29-59 and 6-24-59, from McRae and Cordele, Ga., and Norfolk, Va.

LIBELED: 8-17-59, E. Dist. Mich.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 9-21-59. Consent—claimed by Velvet Peanut Products Div. of Sunshine Biscuits, Inc., Detroit, Mich. The article was sorted, cleaned, and converted into peanut butter.

26596. Shelled peanuts and cocoa beans. (F.D.C. No. 44212. S. Nos. 77-014/5 P.)

QUANTITY: 50 119-lb. bags of peanuts and 750 132-lb. bags of cocoa beans, at Seattle, Wash., in possession of Washington Chocolate Co.

SHIPPED: 8-14-59 and 10-26-59, from Ilheus, Brazil, and Houston, Tex.

LIBELED: 1-29-60, W. Dist. Wash.

CHARGE: 402(a)(4)—the articles had been held under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: 2-4-60. Consent—claimed by Washington Chocolate Co. Segregated; 214 lbs. of peanuts and 1,590 lbs. of cocoa beans destroyed, and 14,193 lbs. of cocoa beans converted for use in making fertilizer.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE

26597. Mineral water. (F.D.C. No. 35395. S. Nos. 62-733 L, 62-735 L.)

QUANTITY: 353 cases, 6 ½-gal. btls. each, and 81 5-gal. carboys, at Memphis, Tenn., in possession of Mountain Valley Distributors (Mountain Valley Water Co.).

SHIPPED: 6-5-53 and 7-24-53, from Hot Springs, Ark., by Mountain Valley Spring Co.

LABEL IN PART: (Btl.) "Mountain Valley Mineral Water * * * A naturally pure mildly-alkaline mineral water. * * * it is ideal for regular use by children and adults * * * Visitors in Hot Springs, Ark., usually drink at least 8 glasses each 24 hours * * * Bottled by Mountain Valley Spring Co., Hot Springs, Arkansas."

ACCOMPANYING LABELING: Pamphlets entitled, "Your Health Begins With Nature," "The Importance of Mountain Valley Water in Arthritic and Rheumatic Disorders," "The Importance of Mountain Valley Water in Kidney and Bladder Disorders," "Mountain Valley Water from Hot Springs, Arkansas, in Pregnancy and Care of Children," "The Story of Mountain Valley Mineral Water from Hot Springs, Arkansas," "Is Your Trouble Mineral Deficiency?," "Facts

About Mountain Valley Mineral Water from Hot Springs, Arkansas," "Why Everyone Should drink Two Quarts of Water Each Day," "Helping to Stay Young Through Minerals," and "How Much Mountain Valley Mineral Water Should I Drink?"

LIBELED: 8-19-53, W. Dist. Tenn.

CHARGE: 403(a)—when shipped and while held for sale, the accompanying labeling of the article contained false and misleading representations that cooking steams away some of the mineral-laden moisture in food; that common foods cannot be relied upon as an adequate source of essential minerals; the lack of necessary minerals is one of the missing links in the health measures taken by the average person; minerals help to offset the damaging effects of toxins and wastes; drinking Mountain Valley Water regularly helps the body control the amount of nutrition taken in and the amount of waste eliminated; the influence of Mountain Valley Water on the metabolic process, the changing of food to heat energy, is most healthful and increases the assimilation of foods; the magnesium bicarbonate, 52.66 parts per million, in Mountain Valley Water helps to neutralize excessive uric acid thereby assisting the elimination of toxins which the body must throw off; the silica, 15.57 parts per million, in Mountain Valley Water which carries the minerals to points of assimilation is itself passed off by the body through pores, the glands and elimination organs; aluminum sulphate, 7.59 parts per million, in Mountain Valley Water, is a purification agent, among other things, and serves as a mild diuretic eliminant; potassium is a good oxidizing agent and helps regulate the availability of nourishment taken in and the amount of waste thrown out; the minerals in Mountain Valley Water help the kidneys manufacture urea and uric acid; minerals increase resistance to infection; it has been determined with alarm that some foods which are normally considered excellent sources of certain minerals, no longer contain them because the soil where they were grown has lost a portion of these elements; calcium deficiency is usually accompanied with the inability of the body to utilize vitamin B₁; cobalt stimulates the body's blood-making system and is used in synthesizing vitamin B₁₂ in the body; the trace of cobalt in Mountain Valley Water may be of inestimable value in nutrition, especially for people residing in areas fed from cobalt-deficient soil; a shortage of zinc disturbs genital functions, nitrogen assimilation and normal hair growth; and falling out of hair and hair changes seem to be directly connected with the presence or absence of zinc, and as it is possible that zinc deficiency is quite frequent, the drinking of Mountain Valley Water on a regular basis should help to supply the needs of this element; and 403(j)—the article purported to be and was represented as a food for special dietary uses by reason of its mineral content and its label failed to reveal the fact, as required by the regulations, that the need for sulfur and cobalt, manganese, fluorine, zinc and bromine, in human nutrition had not been established; and its label failed also to state, as required by the regulations, the proportion of the minimum daily requirement for children and adults for calcium, phosphorus, iron, and iodine supplied by the article when consumed in a specified quantity during a period of one day, and the quantity of manganese, zinc, bromine, sulfur, cobalt, potassium magnesium, copper, and fluorine in a specified quantity.

The libel alleged also that the article was misbranded under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices, No. 6023.

DISPOSITION: On 9-8-53, Mountain Valley Sales Co. filed a claim for the water, and a motion for removal and transfer to the United States District Court for the Eastern District of Arkansas.

On 10-19-53, an order was entered that the case be transferred to such court. On 11-2-53, the United States Attorney for the E. Dist. Ark. and the attorney for the claimant filed a stipulation to transfer the case to the W. Dist. Ark., and on the same day the case was transferred to that district. On 11-23-53, the Judge of the District Court of the W. Dist. Ark. on his own motion, ordered the case remanded to the E. Dist. Ark. The memorandum opinion on which the order was based is set forth as follows:

MILLER, *District Judge*: "The record in this case reflects the existence of a serious jurisdictional question and it is the duty of the court on its own motion to determine that question.

"In Moore's *Federal Practice*, Second Edition, page 2330, in discussing Rule 12(h) of the Federal Rules of Civil Procedure, the learned author said:

A party may always suggest that the court lacks jurisdiction of the subject matter, or the court may raise such defect on its own initiative.

"In *Hackner, et al. v. Guaranty Trust Company of New York, et al.*, 2nd Circuit, 117 F. 2d 95, the court at page 97 of the opinion said:

Appellant's objections to the timeliness or form of the motion to dismiss are unavailing, as jurisdictional issues may be raised by the court at any time on its own motion.

"In *Clark, Director, v. Paul Gray, Inc., et al.*, 306 U.S. 583, 83 L. Ed. 1001, 59 S. Ct. 744, the court at page 588 of 306 U.S. said:

A motion of appellants in the court below to dismiss the bill of complaint for want of the jurisdictional amount was withdrawn, and the jurisdiction of the district court is not challenged here. But on the argument, it appearing doubtful whether the 'matter in controversy' exceeded 'the sum or value of' \$3,000.00, § 24(1) of the Judicial Code; 28 U.S.C. § 41(1), we raised the question whether the jurisdictional amount was involved, as was our duty.

"In *Louisville & Nashville Railroad Company v. Mottley*, 211 U.S. 149, 53 L. Ed. 126, 29 S. Ct. 42, the court at page 152 of 211 U.S. said:

We do not deem it necessary, however, to consider either of these questions, because, in our opinion, the court below was without jurisdiction of the cause. Neither party has questioned that jurisdiction, but it is the duty of this court to see to it that the jurisdiction of the Circuit Court, is not exceeded. This duty we have frequently performed of our own motion.

"In the instant case no one has questioned the jurisdiction of this court but, as above stated, it is the duty of the court to examine and determine the question for itself. Jurisdiction cannot be conferred by agreement but only by statute.

"The suit was filed in the United States District Court for the Western District of Tennessee on August 19, 1953, for seizure and condemnation of certain articles under and in accordance with the Federal Food, Drug and Cosmetic Act (21 U.S.C.A. 301, et seq.). The articles sought to be seized and condemned were situated in the City of Memphis, within the territorial jurisdiction of the Federal Court for the Western District of Tennessee. The libelant, inter alia, prayed that all persons having any interest therein be cited to appear herein and answer the aforesaid premises; that this court decree the condemnation of the aforesaid article and grant libelant the costs of this proceeding against the claimant of the aforesaid article; that the aforesaid article be disposed of as this court may direct pursuant to the provisions of said Act; and that libelant have such other and further relief as the case may require.

"After due and timely notice of the filing of the libel, the Mountain Valley Sales Company, a corporation organized and existing under the laws of the State of Arkansas and having its principal office in the City of Hot Springs, County of Garland, State of Arkansas, filed its claim in which it alleged that it

is the true and bona fide owner of and herein makes claim for the aforesaid 353 cases, more or less, each containing 6½ gallon bottles, and the 81-5 gallon carboys, more or less, of an article labeled in part 'Mountain Valley Mineral Water,' which are the subject matter of the libel filed herein on August 19, 1953.

"On the same date, the claimant filed its motion for removal and transfer and renewed its allegation that it is an Arkansas corporation, with its principal place of business in the City of Hot Springs in Garland County, Arkansas, 'which is in the Western District of Arkansas.'

"The motion was based upon Section 304(a) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C.A. 334(a). The prayer of the motion is that the court immediately remove and transfer this case either to the Eastern District of Arkansas or to some other district which is within reasonable proximity of claimant's principal place of business and is contiguous to the district in which said place of business is located.

"The motion was heard on October 16 and the court, in granting the motion, said:

The law provides that the court shall, by order, unless good cause to the contrary shown, specify a district of reasonable proximity to the claimant's principal place of business, to which district the case shall be removed for trial. The formal order of removal recites that the court does hereby find that the claimant is an Arkansas corporation having its principal place of business in Hot Springs, Arkansas, which is located within the Western Judicial District of Arkansas, and that a judicial district of reasonable proximity to the claimant's principal place of business is the Eastern Judicial District of Arkansas, Western Division, at Little Rock, Arkansas; and the court further finds that the motion of claimant is well taken and should be granted, no good cause to the contrary having been shown, under the direction and authority of Section 304(a) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C.A. 334(a).

"In accordance with the order, the papers and record were transmitted to the United States District Court for the Eastern District of Arkansas, Western Division, at Little Rock, Arkansas, and were filed in that court on October 20, 1953. On November 2, 1953, Honorable James T. Gooch, United States Attorney for the Eastern District of Arkansas, as attorney for libelant, and Messrs. Wright, Harrison, Lindsey & Upton, attorneys for claimant, filed a stipulation in which they stipulated, 'that the cause may be transferred forthwith to the United States District Court, Western District of Arkansas, Hot Springs Division.' On the same date, the court entered an order transferring the case in accordance with the stipulation, and the papers and records were filed herein on November 10, 1953.

"As heretofore stated, the libel was filed under 21 U.S.C.A., § 334, which provides:

(a) Any article of food, drug, device, or cosmetic that is adulterated or misbranded when introduced into or while in interstate commerce or while held for sale * * * after shipment in interstate commerce, * * * shall be liable to be proceeded against while in interstate commerce, or at any time thereafter, on libel of information and condemned in any district court of the United States within the jurisdiction of which the article is found.

"The record does not clearly disclose upon what authority the case was transferred to this court. It is clear that 28 U.S.C.A., § 1404 does not apply since the original action could not have been brought in this District because the articles sought to be condemned were not then and are not now within the territorial jurisdiction of this court. *Fettig Canning Company v. Steckler*, 7th Circuit, 188 F. 2d 715; *United States v. Reid*, D.C.E.D. Ark., 104 F. Supp.

260; *United States v. 23 Gross Jars, more or less, of Enca Cream, et al.*, N.D. Okla., 86 F. Supp. 824.

"21 U.S.C.A., § 334(a), does not authorize or permit the removal of a case of this nature to the district within which claimant's principal place of business is located. In *United States v. 23 Gross Jars, etc.*, *supra*, the court said:

Since Section 1404(a) does not apply, the special venue section of 21 U.S.C.A. does. This section allows removal in this type action to district courts 'of reasonable proximity to the claimant's principal place of business.' The phrase has been interpreted to exclude the district or division in which claimant's principal place of business is found.

"See *United States v. 91 Packages, more or less, Nutrilite Food Supplement, etc.*, D.C.N.J., 93 F. 763; *United States v. 600 Units containing Nue-Ovo, etc.*, D.C., W.D., Mo., 60 F. Supp. 144; *United States v. 26 Dozen Bottles etc., of Wheatemin Brand Cevigards*, D.C., Mich., 60 F. Supp. 626.

"The United States District Court for the Western District of Tennessee could not have transferred the case to this court because the claimant's principal place of business is situated in the Western District of Arkansas, Hot Springs Division, and it seems perfectly clear that the transfer to the Eastern District of Arkansas was entirely proper and in accordance with the statute. When the case was transferred to the Eastern District of Arkansas, it was to a district required by the statute under which the Tennessee Federal Court acted, and, even though the libelant and the claimant stipulated that the court in the Eastern District of Arkansas should transfer the case to this court, such stipulation or agreement and the order of the court of the Eastern District of Arkansas cannot give this court jurisdiction. In *United States v. Six Dozen Bottles, more or less of Dr. Peter's Kuriko*, E.D. Wisc., 55 F. Supp. 458, Judge Duffy said:

The power of removal is exclusively conferred under the act upon the court of original jurisdiction, barring of course the existence of a stipulation of the parties on the subject. As the latter element does not obtain in the instant situation, this court has no power to grant the requested removal. In other words, the right to removal is completely exhausted and no longer exists in this proceeding.

Claimant contends, however, that this court may order the requested removal under Sec. 334(f)(2) of the act, which provides: 'The court to which such case was removed shall have the powers and be subject to the duties, for purposes of such case, which the court from which removal was made would have had, or to which such court would have been subject, if such case had not been removed.'

As pointed out, the proceeding was removed, pursuant to the statute, to this court 'for trial' and not for any other purpose. The language of the act last quoted is consistent with such limitation and expressly negatives any power in this court to grant further removal on application. A claimant in proceedings of this nature is limited to a single application for removal which must be made to the court of original jurisdiction. My conclusions have complete support in the legislative history of the controlling statutory provisions.

"The order of transfer of the court of the Eastern District of Arkansas is not the law of the case and it is the duty of this court to remand the case to that court. *United States v. Reid*, *supra*, page 266, 104 F. Supp.; *United States v. 23 Gross Jars, more or less, of Enca Cream, et al.*, *supra*, at page 826 of 86 F. Supp.; *United States v. 26 Dozen Bottles, etc., Wheatemin Brand Cevigards*, *supra*.

"Therefore, an order should be entered remanding the case to the United States District Court for the Eastern District of Arkansas, Western Division."

Thereafter, on 12-2-53, claimant filed a motion in the W. Dist. Ark., to set aside the order of Judge Miller made on 11-23-53. The motion was overruled by Judge Miller on 12-11-53 (117 F. Supp. 110).

On 12-21-53, the claimant filed in the U.S. District Court for the E. Dist. Ark., a motion to dismiss or re-transfer the case. The motion was based on grounds that the court of the E. Dist. Ark. was without jurisdiction because the action was properly transferred from the E. Dist. Ark. to the W. Dist. Ark. by a valid order entered on 11-2-53, after a stipulation between the parties was made under the authority of Section 304(a) of the Federal Food, Drug, and Cosmetic Act. The motion alleged that the order of the U.S. District Court for the W. Dist. Ark. entered on 11-23-53, remanding the cause to the U.S. District Court for the E. Dist. Ark., was void. On 1-11-54, the Government filed its objection to the motion to dismiss or re-transfer for reason that the jurisdiction to try the case was vested exclusively in the U.S. District Court for the E. Dist. Ark.

On 6-16-55, Judge Trimble, Chief Judge of the U.S. District Court for the E. Dist. Ark., ruled in an opinion (135 F. Supp. 333), that his prior order (on 11-2-53) transferring the case pursuant to the stipulation, was proper and that the court of the E. Dist. Ark. was without jurisdiction to proceed.

Thereafter, the Government filed with the United States Court of Appeals for the Eighth Circuit, a petition for writ of mandamus to compel the District Judge of the E. Dist. Ark. to vacate his order of 6-14-55, and retain jurisdiction of the action. The petition for writ of mandamus was denied by the United States Court of Appeals for the Eighth Circuit in the following opinion which was handed down on 10-19-55 (226 F. 2d 238) :

VOGEL, *Circuit Judge*: "By order of this court dated August 15, 1955, the petitioner, United States of America, was granted leave to file its petition for a writ of mandamus wherein petitioner asked that the respondents herein show cause before this court why a writ of mandamus should not issue requiring the United States District Court for the Eastern District of Arkansas and the Honorable Thomas C. Trimble, Chief Judge of said court, to vacate its order of June 14, 1955, denying jurisdiction in the case of *United States of America, Libelant, v. 353 cases*, more or less, each containing 6 one-half gallon bottles, etc., Libelee, and Mountain Valley Sales Company, a corporation, Claimant, Civil No. 2682, and retain jurisdiction of such action and dispose of the case in accordance with proper legal procedure.

"The facts out of which the matter arose are as follows :

On August 19, 1953, the United States filed libel of information in the Western District of Tennessee against certain merchandise, praying seizure in condemnation in accordance with the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301, et seq.), alleging that the merchandise was misbranded. No stipulation for removal of the case to another district was entered into and upon petition for removal and transfer, the District Court for the Western District of Tennessee transferred the case to the District Court for the Eastern District of Arkansas.

"On November 2, 1953, the United States Attorney for the Eastern District of Arkansas, representing the libelant, and the attorney representing the claimant signed and filed a stipulation providing that the case should be transferred from the Eastern District of Arkansas to the Hot Springs Division of the Western District of Arkansas, the principal place of claimant's business. Chief Judge Trimble, respondent, signed an order so transferring the case.

"On November 23, 1953, Judge John E. Miller, of the Hot Springs Division of the Western District of Arkansas, on his own motion, ordered that the case be remanded to the United States District Court for the Eastern District of Arkansas. On December 2, 1953, the claimant filed a motion to set aside the remanding order of November 23, 1953. Such motion was overruled by Judge Miller on December 11, 1953. Pursuant to Judge Miller's order, the case was remanded to the Eastern District of Arkansas. In remanding the case, Judge Miller, whose opinion appears in 117 F. Supp. 110, held that his court was without jurisdiction.

"On December 21, 1953, the claimant filed a motion in the Eastern District of Arkansas, asking that the case be dismissed or re-transferred to the Western District of Arkansas pursuant to the stipulation referred to herein. Chief Judge Trimble of that court, in an opinion and order dated June 14, 1955, held that his court was without jurisdiction to proceed in the case and that,

* * * due to the refusal of the court of the Hot Springs Division of the Western District of Arkansas to accept said transfer, it would not be proper for this court to make a re-transfer of the case, but that an order dismissing the cause should be deferred for a period of sixty days in order to enable libelant, if it so desires, to apply to the Court of Appeals for a writ of mandamus to determine the proper forum for the trial thereof.

"We have thus presented a question of jurisdiction as between two District Courts within this Circuit, each holding that it is without power or jurisdiction to proceed with the trial of the case. A stalemate or impasse is created which, in the opinion of this court, justifies the exercise of its power to determine the question of jurisdiction. The order of Chief Judge Trimble is not an appealable order. However, no good could come of, and considerable delay and possibly harm could be caused by, awaiting an order of dismissal from the District Court for the Eastern District of Arkansas, Western Division, and appeal therefrom. Chief Judge Trimble has held that his court does not have jurisdiction. If he is right, then he does not have jurisdiction to dismiss and there would be nothing from which to appeal. It would be improper for this court to allow such a stalemate to continue. The matter should be dealt with now so that the case may be properly tried in the court having jurisdiction thereof. *Ex Parte Simons, Petitioner*, 247 U.S. 231 (1917); *Barber Asphalt Pav. Co. v. Morris, Judge*, 132 F. 945 (8th C.C.A.); *C-O-Two Equipment Co. v. Barnes, Judge*, 194 F. 2d 410 (7th C.C.A.); *Wiren v. Laws*, 194 F. 2d 873 (D.C.C.A.).

"The question presented is difficult. Two able and conscientious District Judges, after exhaustive review and the writing of carefully considered opinions, have arrived at diametrically opposed conclusions, each holding that his court is without jurisdiction. While this situation exists, the case itself hangs in mid-air with nothing being done to bring it to trial and proper conclusion.

"The solution of the problem lies in the interpretation given to 21 U.S.C. 334(a). That section, insofar as it may be pertinent to the problem, provides as follows:

In any case where the number of libel for condemnation proceedings is limited as above provided *the proceeding pending or instituted shall, on application of the claimant, seasonably made, be removed for trial to any district agreed upon by stipulation between the parties, or, in case of failure to so stipulate within a reasonable time, the claimant may apply to the court of the district in which the seizure has been made, and such court (after giving the United States attorney for such district reasonable notice and opportunity to be heard) shall by order, unless good cause to the contrary is shown, specify a district of reasonable proximity to the claimant's principal place of business, to which the case shall be removed for trial.* (Emphasis supplied.)

"In remanding the case to the Eastern District of Arkansas, Judge Miller said, in *U.S. v. 353 Cases, More or Less, Mountain Valley Mineral Water*, 117 F. Supp. 110, 115:

A reference to the statute discloses that the application of a claimant for transfer, whether upon stipulation or motion, must be made 'to the court of the district in which the seizure has been made, * * *.' The statute authorizes only one application and that must be to the designated court. If agreeable to all parties in a case of alleged misbranding, as in the instant case, the case may be transferred to 'any district agreed upon by stipulation between the parties,' but if the parties do not so stipulate then the designated court must, if a transfer is allowed, 'specify a district of reasonable proximity to the claimant's principal place of business, to which the case shall be removed for trial.' The claimant

exercised its right to a transfer from the court of original jurisdiction to a court permitted by the statute. In so doing it exhausted the statutory right to transfer and the case cannot be transferred again either on motion or stipulation.

* * * * *

"If the parties are allowed, by stipulation, to transfer a case a second time, there is no reason why they could not transfer it as many times as they might desire and thus control the jurisdiction of the federal courts by various stipulations.

"We are unable to agree with Judge Miller in his conclusions. In dealing with the application for transfer based on stipulation, the statute refers to a case 'pending or instituted,' from which it is fair to assume Congress meant some court in addition to that wherein the case was 'instituted'; in other words, to a court where it might be 'pending' as distinguished from where it was 'instituted.' Such an interpretation presupposes the possibility of at least one transfer to get from the court where the case was 'instituted' to where it was 'pending.'

"The statute does not limit the number of applications to one. It is, in fact, silent on that question and it is only by inference, as above, that the thought of more than one application is arrived at. Granted that the matter is not free from doubt, we prefer the more liberal view and do not believe the parties were bound by or limited to one application and only one where a stipulation has been entered into between them.

"In passing the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301, et seq.), Congress recognized that extreme hardship might result to claimants whose property had been seized in distant jurisdictions. A manufacturer with its principal place of business in California might have property seized in Maine. The difficulties of property defending the libel action in the district where the property was seized, such as in the production of documents or other exhibits, the availability of witnesses and the readiness of other information, together with the expense, might make it impossible for a claimant to obtain justice. Congress accordingly provided, in 21 U.S.C. 334(a), that the proceeding 'pending or instituted' could be removed for trial 'to any district agreed upon by stipulation between the parties.' In the event of failure to so stipulate, Congress provided that the claimant 'may apply to the court of the district in which the seizure has been made, and such court shall by order, unless good cause to the contrary is shown, specify a district of reasonable proximity to the claimant's principal place of business.'

"In the instant case, the parties apparently were at first unable to agree upon a place for trial and accordingly it became necessary for the claimant to make application to the court of original jurisdiction for transfer. That transfer or removal could not be to the district of the claimant's principal place of business but only to 'a district of reasonable proximity' thereto. It will be noted that the statute involved, in referring to claimant's petition for removal, specifically provides that such application shall be 'to the court of the district in which the seizure has been made.' As already pointed out, no such restriction is found where the parties have agreed by stipulation upon the place of trial. Such application, based on stipulation, may be made to any court where the case is pending. Nowhere in the statute will be found any provision to the effect that a claimant has exhausted its statutory right to transfer by stipulation through having made application to the court of original jurisdiction for removal and we cannot accept such constrained view of the statute.

"In the case of *United States v. 45½ Dozen Packages, More or Less, of U-X Improved Shaving Medium*, 46 F. Supp. 112, the court, under identical facts such as we are concerned with here, said, at page 112:

Claimant contends that the order transferring the case to this court had been consented to by the United States Attorney for the District of Connecticut, and, accordingly, such transfer was permissible under the statute. I agree with this contention. The statute specifically provides that a proceeding 'pending or instituted' shall on application of the claimant be removed to any district agreed upon by stipulation between the parties. The consent of the United States Attorney for the District of Connecticut was in effect a stipulation. Nowhere is it provided that by

stipulation a proceeding may be transferred only once, and then only to a district where the claimant does not have his principal place of business.

"In *United States v. Six Dozen Bottles, More or Less, of 'Dr. Peter's Kuriko,'* 55 F. Supp. 458, D.C.E.D. Wisc. 1944, the court denied a second request by claimant for a compulsory removal. In the opinion, Judge Duffy, now Judge of the United States Court of Appeals, 7th Circuit, said:

The power of removal is exclusively conferred under the act upon the court of original jurisdiction, *barring of course the existence of a stipulation of the parties on the subject. As the latter element does not obtain in the instant situation, this court has no power to grant the requested removal.* In other words, the right to removal is completely exhausted and no longer exists in this proceeding. (Emphasis supplied.)

"There would seem to be there inferred that if a stipulation had existed in that instance the court would have had the right to enter an order removing the case to the district provided for in such stipulation. To hold that the parties could not stipulate for a place of trial agreeable to both because the claimant had once made application to the court of original jurisdiction for removal would seem to us unduly restricting the parties and to defeat the intent of Congress to the effect that the case could be tried in any district agreeable to the parties as expressed by stipulation. We do not believe that Congress intended any limitation which it did not express.

"Argument has been made to the effect that this view or interpretation of the statute might result in continuous transfer from one district to another, possibly through unwillingness on the part of United States Attorneys to try the case and to shift the burden elsewhere. We find no force to that argument. The United States Attorneys in the various districts are under the control of the Attorney General. The remedy for any such difficulty, should it arise, rests in his hands and can be easily exercised. We think the Congress intended that the parties should be allowed to stipulate trial in 'any district agreed upon' and that such right is a salutary one and that its exercise in many instances may operate in the interests of justice.

"In the instant case, it may well be that due to unfamiliarity with the problems involved the parties at first could not agree upon a place of trial. Subsequent to the original removal to the Eastern District of Arkansas, Western Division, the parties did agree that the case could best be tried in the home district of the claimant. This is consistent with the general idea that a party has a right to be tried in his home district unless such place of trial would otherwise appear improper.

"We hold that under the statute the parties had the right to stipulate a removal of the case from the Eastern District of Arkansas to the home district of the claimant and that the Western District of Arkansas, Hot Springs Division, has jurisdiction of the case. Accordingly, the writ of mandamus will be denied and it is ordered that the files in the case of *United States of America, Libellant, v. 353 cases*, more or less, each containing 6 one-half gallon bottles, and 81 five-gallon carboys, more or less, of an article of food and drug labeled in part: 'Mountain Valley Mineral Water,' et al., Mountain Valley Sales Company, a corporation, Claimant, Civil No. 2682, be transferred from the Eastern District of Arkansas, Western Division, to the Western District of Arkansas, Hot Springs Division, in order that that court may be in a position to proceed with the case."

On 6-6-55, H. B. McFarling, the distributor of the seized water and pamphlets, Memphis, Tenn., filed a claim for the following described pamphlets: "The importance of Mountain Valley Water in Arthritis and Rheumatic Disorders," "The Importance of Mountain Valley Water in Kidney and Bladder Disorders," "The Story of Mountain Valley Mineral Water From Hot Springs, Arkansas," "Is Your Trouble Mineral Deficiency?," "Facts About Mountain Valley Mineral Water From Hot Springs, Arkansas," "Why Everyone Should Drink Two Quarts of Water Each Day," "How Much Mountain Valley Mineral Water Should I Drink."

On 6-6-55, John G. Scott, Yonkers, N.Y., appeared as claimant for the pamphlet, entitled "Helping To Stay Young Through Minerals."

The Government and the claimants each filed written interrogatories, which were subsequently answered in part, and in addition extensive depositions were taken.

The case came on to trial before a jury on 5-21-56, in the W. Dist. Ark., and was concluded on 6-2-56, when the jury rendered a verdict in favor of the claimants. On 6-2-56, the court in accordance with the jury verdict, entered a judgment in favor of the claimants and ordered the action dismissed.

At the close of the claimants' testimony, the Government filed a written motion for a directed verdict which was denied. After the jury verdict, the Government filed a motion for a judgment notwithstanding the verdict. This motion was denied on 8-1-56, (143 F. Supp. 219). The Government appealed and the judgment of the district court was reversed by the United States Court of Appeals for the Eighth Circuit on 8-6-57, in the following opinion (247 F. 2d 473):

SANBORN, *Circuit Judge*: "This is an appeal by the United States from an adverse judgment in a libel proceeding brought by it on August 19, 1953, in the Western District of Tennessee, for the condemnation, under § 304(a) of the Federal Food, Drug, and Cosmetic Act, 52 Stat. 1040, as amended; 21 U.S.C. § 334(a), of a quantity of allegedly misbranded Mountain Valley Mineral Water, bottled by the Mountain Valley Spring Company, of Hot Springs, Arkansas, and shipped in interstate commerce. At the time of seizure in the libel proceeding, the water and its accompanying sales literature was located at 2089 Madison Avenue, Memphis, Tennessee, in the possession of an authorized distributor, Henry Branson McFarling, doing business as Mountain Valley Water Company.

"How the case came ultimately to be tried, in the spring of 1956, before the United States District Court for the Western District of Arkansas and a jury, at Hot Springs, Arkansas, can be gathered from *United States v. United States District Court for the Eastern District of Arkansas*, 8 Cir., 226 F. 2d 238.

"The claim of the Government that the water was misbranded, and therefore subject to condemnation, was based upon the assertions: (1) that the 'labeling' (promotional sales literature and advertising), accompanying the water,¹ falsely represented it to be an adequate and effective treatment for various diseases and disorders, and contained other false statements [§ 502(a) of the Act; 21 U.S.C. § 352(a)];² and (2) that the water was represented for special dietary uses, and that its label did not bear the information concerning its mineral properties, determined by regulations (21 C.F.R. § 125.4, promulgated in 1941) to be necessary 'in order fully to inform purchasers as to its value for such uses,' as is required by § 403(j) of the Act; 21 U.S.C. § 343(j).³

¹ By § 201(m) of the Act, 21 U.S.C. § 321(m), "labeling" means "all labels and other written, printed, or graphic matter (1) upon any article or any of its containers or wrappers, or (2) accompanying such article," in the sense of supplementing or explaining it. *Kordel v. United States* 335 U.S. 345, 350; *V. E. Irons, Inc. v. United States*, 1 Cir. 244 F. 2d 34, 39. "Label" is defined as "a display of written, printed, or graphic matter upon the immediate container of any article; * * *." Sec. 201(k) of the Act; 21 U.S.C. § 321(k).

² "§ 352. [21 U.S.C.] *Misbranded drugs* * * *

"A drug * * * shall be deemed to be misbranded—

"(a) If its labeling is false or misleading in any particular."

³ "§ 343. [21 U.S.C.] *Misbranded food*

"A food shall be deemed to be misbranded—

* * * * *

"(j) If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the [Federal Security] Administrator [the Secretary of Health, Education, and Welfare since April 11, 1953, 67 Stat. 631, 632] determines to be, and by regulations prescribes as, necessary in order fully to inform purchasers as to its value for such uses."

"Food" is defined by § 201(f) of the Act, 21 U.S.C. § 321(f) as "(1) articles used for food or drink for man or other animals, * * *."

"The Mountain Valley Sales Company, of Hot Springs, Arkansas, a subsidiary of the Mountain Valley Spring Company which bottled the water, filed a claim for the water and a separate claim for '24 pamphlets, more or less, entitled "Your Health Begins With Nature",' and '24 pamphlets, more or less, entitled, "Mountain Valley Water From Hot Springs, Arkansas, in Pregnancy and Care of Children",' which pamphlets had been seized in the libel proceeding.

"John G. Scott, of Yonkers, New York, 'the Mountain Valley distributor in New York and in the New York area,' filed a claim asserting ownership of three of the seized pamphlets entitled, 'Helping to Stay Young Through Minerals.' He moved to dismiss the libel as to the three pamphlets on the ground that they did not constitute labeling and had been unlawfully seized. He also moved to suppress the pamphlets as evidence, on the ground that they had been obtained in violation of his constitutional rights; this upon the theory that Government Agents had unlawfully used decoys and subterfuge in procuring the pamphlets from the Memphis distributor.

"McFarling, the distributor from whom the water and pamphlets were taken, filed a claim for the following seized literature, of which he asserted he was the owner:

146 pamphlets, more or less, entitled 'The Importance of Mountain Valley Water in Arthritic and Rheumatic Disorders'

80 pamphlets, more or less, entitled 'The Importance of Mountain Valley Water in Kidney and Bladder Disorders'

7 pamphlets, more or less, entitled 'The Story of Mountain Valley Mineral Water from Hot Springs, Arkansas'

123 pamphlets, more or less, entitled 'Is Your Trouble Mineral Deficiency?'

500 pamphlets, more or less, entitled 'Facts About Mountain Valley Mineral Water from Hot Springs, Arkansas'

4 pamphlets, more or less, entitled 'Why Everyone Should Drink Two Quarts of Water Each Day'

50 pamphlets, more or less, entitled 'How Much Mountain Valley Mineral Water Should I Drink?'

McFarling also filed a motion to suppress the pamphlets as evidence.

"The trial court deferred ruling on the several motions to suppress evidence and to dismiss the libel, until the trial of the case on the merits. The motions ultimately disappeared from the case.

"All of the claimants were represented by the same counsel. It is apparent from the record that the party most interested in defending against the libel was the Mountain Valley Spring Company, of Hot Springs, Arkansas. It has for many years bottled the water from the Mountain Valley Spring, which is located about ten miles by road from the city of Hot Springs, and has sold the water rather generally throughout the United States to authorized distributors, and to dealers through its subsidiary the Mountain Valley Sales Company.

"At the trial, the issues were: (1) whether the sales literature introduced in evidence by the Government constituted 'labeling' of the water within the meaning of 21 U.S.C. § 321(m); (2) whether the labeling was 'false or misleading in any particular' [21 U.S.C. § 352(a)]; and (3) whether the water was represented for special dietary uses.

"The Government, having the burden of proof, first introduced its evidence tending to support its charges that the representations contained in much of the sales literature with respect to the medicinal and therapeutic qualities of the water were false or misleading, and to show that the water was represented for special dietary uses. The claimants then introduced evidence to show that the representations contained in four pamphlets, which they contended were the only ones used by the Memphis distributor, and therefore the only ones constituting 'labeling,' were not false or misleading. They denied that the water was represented for special dietary uses, but did not claim that the labels on the bottles contained the information required by 21 U.S.C. § 343(j).

At the close of the claimants' evidence, the Government made a written motion for a directed verdict on the grounds:

The uncontroverted evidence in this case shows that Mountain Valley Mineral Water is recommended and suggested for use as a food for special dietary uses because of its mineral content. The labels on both sizes of bottles seized fail to bear the information required by 21 U.S.C. [§] 343(j) and 21 C.F.R. [§]125.4. For this reason, the mineral water is, as a matter of law, misbranded within the meaning of 21 U.S.C. [§] 343(j) and should be condemned pursuant to 21 U.S.C. [§] 334 (a) & (b).

In ruling upon the motion, the court said :

Now, this motion of the plaintiff or libelant for a directed verdict on the question of the alleged misbranding of the water as appearing in the exhibit, the bottles introduced here, raises this question. Water may be considered a food when used under the statute for dietary uses. Now, if the court was satisfied that this water was recommended for special dietary uses, then I think the motion probably should be granted, but I am not certain at all on that. * * * I think that is a question that the court must submit to the jury.

At the time of this ruling, the trial was virtually at an end so far as the taking of evidence was concerned, and the court was considering requests for instructions. The court then said to counsel : 'I think we can reasonably assume that the testimony will close this afternoon, at 2:30 or 3:00.' The record shows that the Government called two rebuttal witnesses, and the claimants called one witness on surrebuttal. This additional testimony had nothing to do with the question whether the water was represented for special dietary uses. At the close of this rebuttal evidence, the Government's motion for a directed verdict was not renewed. But when the court called upon counsel for their objections, if any, to the instructions, counsel for the Government said :

The libelant has no objections except for the failure to direct a verdict upon the charge that the water is misbranded because it fails to bear statements required by Section 343-J, of the Federal Food, Drug, and Cosmetic Act, since it is represented as a food for special dietary uses because of its mineral content * * *.

The court overruled the objection.

"The jury's verdict found all issues in favor of the claimants. The Government moved for judgment notwithstanding the verdict, in accordance with its motion for a directed verdict. This the court denied on the grounds (1) that by not renewing the motion for a directed verdict at the close of the entire evidence, the motion was waived, and (2) that the issues were all issues of fact and the verdict of the jury was supported by the evidence. The opinion of the court is found at 143 F. Supp. 219.

"The claimants now insist that the failure of the Government to renew its motion for a directed verdict after the last witness had testified precludes the review of the question whether, under the evidence and the applicable law, the case was mistakenly submitted to the jury.

"*O'Malley v. Cover*, 8 Cir., 221 F. 2d 156, states the well known general rule that to preserve for review the question of the sufficiency of the evidence to take a case to the jury, there must be a motion for a directed verdict at the close of the evidence. The Government contends that, under the evidence, misbranding of the water was conclusively proven, and that this was sharply, definitely and adequately called to the attention of the trial court by the motion for a directed verdict made at the close of all of the evidence which had anything to do with the grounds upon which the motion was based, as well as by the Government's objection, before the jury retired, to the court's failure to direct a verdict.

"We think that as a practical matter the Government did all that was necessary to preserve for review the question whether it was entitled to a directed verdict. This Court, moreover, in the public interest and to guard against injustice, may, of its own motion, notice errors which have not been properly preserved for review, if such errors are obvious, or if they otherwise seriously affect the fairness and integrity of the judicial proceedings. *United States v. Socony-Vacuum Oil Co., Inc.*, 310 U.S. 150, 239; *United States v. Bernays*, 8 Cir., 158 F. 791, 794; *New York Life Ins. Co. v. Rankin*, 8 Cir.,

162 F. 103, 108; *Baltimore & Ohio Railroad Co. v. McCune*, 3 Cir., 174 F. 991, 992; *Hart v. Adair*, 9 Cir., 244 F. 897, 900; *Ayers v. United States*, 8 Cir., 58 F. 2d 607, 609; *Prudential Ins. Co. of America v. Morris*, 3 Cir., 72 F. 2d 824; *Cox v. United States*, 8 Cir., 96 F. 2d 41, 43.

"We have not insisted upon technical perfection in the preservation of alleged errors for review. In the recent case of *Railway Express Agency, Inc. v. Epperson*, 8 Cir., 240 F. 2d 189, counsel for the defendant moved for a directed verdict at the close of the evidence, but his motion was defective in failing to state 'the specific grounds therefor,' as required by Rule 50(a) of the Federal Rules of Civil Procedure, 28 U.S.C.A. A ruling that the motion was inadequate to preserve for review the question of the sufficiency of the evidence to take the case to the jury would have been technically correct. We said (page 193 of 240 F. 2d): 'There was nothing specific about the grounds stated by defendant's counsel in his motion for a directed verdict. It is apparent, however, that the trial judge knew what counsel was driving at. So once again we shall accept intent for performance.' And Rule 1 of the Federal Rules of Civil Procedure provides that the rules 'shall be construed to secure the just, speedy, and inexpensive determination of every action.'

"The public has too vital an interest in the proper and truthful labeling of whatever is sold for human consumption to justify basing a decision upon what, under the circumstances, was a mere technical oversight which misled neither the trial court nor opposing counsel. If, under the evidence and the applicable law, the water was misbranded, it ought to be condemned in the public interest. 'The problem is a practical one of consumer protection, not dialectics.' *United States v. Urbuteit*, 335 U.S. 355, 358.

"How much of the sales literature seized with the water in Memphis constituted 'labeling' within the meaning of 21 U.S.C. § 321(m) was an issue in the case. Of the eight pamphlets seized in the distributor's place of business and introduced in evidence, the claimants conceded that four were 'labeling,' namely those entitled: 'Facts About Mountain Valley Mineral Water from Hot Springs, Arkansas'; 'How Much Mountain Valley Mineral Water Should You Drink?'; 'The Importance of Mountain Valley Water in Arthritic and Rheumatic Disorders'; and 'The Importance of Mountain Valley Water in Kidney and Bladder Disorders.' The other four, which bore the following titles, 'Mountain Valley Water from Hot Springs, Arkansas, in Pregnancy and Care of Children'; 'Your Health Begins With Nature'; 'Is Your Trouble Mineral Deficiency?'; and 'The Story of Mountain Valley Mineral Water from Hot Springs, Arkansas,' the Government contended were also 'labeling.' The claimants, however, insisted that they were not. This, ostensibly, because of evidence that they had not been used by the distributor in connection with selling the water in Memphis. However, all of the pamphlets were obviously printed for use generally in promoting the sale of the water, and were useful for no other purpose. All of them were found in the place of business of the local distributor, and were approved advertising matter, available upon request. The President of the Mountain Valley Spring Company testified, as a witness for the claimants, that he knew of no sales literature being printed that was not approved.

"The interpretation accorded the phrase 'special dietary uses' by the agency selected by Congress to enforce the Federal Food, Drug, and Cosmetic Act is found at 21 C.F.R. § 1.11, and reads as follows:

§ 1.11 *Special dietary uses.* (a) The term 'special dietary uses,' as applied to food for man, means particular (as distinguished from general) uses of food, as follows:

(1) Uses for supplying particular dietary needs which exist by reason of a physical, physiological, pathological or other condition, including but not limited to the conditions of diseases, convalescence, pregnancy, lactation, allergic hypersensitivity to food, underweight, and overweight;

(2) Uses for supplying particular dietary needs which exist by reason of age, including but not limited to the ages of infancy and childhood;

(3) Uses for supplementing or fortifying the ordinary or usual diet with any vitamin, mineral, or other dietary property. Any such particular

use of a food is a special dietary use, regardless of whether such food also purports to be or is represented for general use.

* * * * *

"We do not propose to set out in this opinion all of the statements in all of the pamphlets, which the Government contends were conclusively shown by the evidence to constitute 'labeling,' representing that the water has 'special dietary uses.' From the sales literature received in evidence, it is clear that the water was recommended for such uses. In the pamphlet 'Facts About Mountain Valley Mineral Water from Hot Springs, Ark.' (conceded by claimants to be 'labeling'), the following appears:

What makes it so helpful?

* * * * *

4. Its low sodium. Mountain Valley Water, with less than 3 parts per million, is ideal for the low-salt diet often advised in High Blood Pressure and Congestive Heart conditions.

5. Its aid to digestion. When used daily for a few weeks, Mountain Valley Water tends to improve the digestion of protein and fat substances of food.

* * * * *

7. Its helpful trace minerals, including fluorine for teeth and dental caries.

* * * * *

Does it Over-mineralize the System? No. Laboratory research indicates that the predominant mineral in Mountain Valley Water—calcium—is utilized by the body, but where the body already receives an adequate supply of calcium, the drinking of Mountain Valley Water does not tend to increase the amount of calcium in the body.

* * * * *

Where Mountain Valley Water is not being used as an aid in treatment, it is usually consumed in place of ordinary water, with and between meals.

"In 'How Much Mountain Valley Mineral Water Should I Drink?,' appears:

With Meals—Competent medical opinion today advises water with meals. Mountain Valley is especially suitable; furnishing assimilable calcium, magnesium and other vital minerals.

"In 'The Importance of Mountain Valley Water in Kidney and Bladder Disorders,' appears the statement that 'Pure Mountain Valley Water contains certain minerals which help proper kidney function.'

"In 'Your Health Begins with Nature,' which the claimants deny was 'labeling,' but which, we think, obviously was 'labeling,' there were many statements representing the water as a dietary supplement. The following are examples:

The influence of Mountain Valley on the metabolic process, the changing of food to heat-energy, is most healthful. This assistance benefits all ages—from infants to elderly men and women. Children need Mountain Valley Water to supplement the calcium they use for teeth and bones. Adults appreciate Mountain Valley for the general 'good health' which seems to be with those who drink it regularly.

* * * * *

Mineral Analysis in Parts Per Million

Calcium Bicarbonate—315.43—The rich calcium intake available in Mountain Valley Water helps prevent decalcification in many cases. It contributes to the bone-building process, helps ward off bone diseases, and stimulates kidney secretion.

* * * * *

Sodium—2.88—Mountain Valley's remarkably low sodium content is especially important to persons suffering from congestive heart failure

high blood pressure, and certain kidney conditions. It is often recommended by doctors to patients on low sodium diets.

* * * * *

Pregnancy

* * * * *

Mountain Valley is also prescribed for its high assimilable calcium content. During the latter half of pregnancy, the mother is required to supply the baby large amounts of calcium for bone building. If sufficient calcium isn't supplied by the mother's diet, decalcification of the mother's bones or teeth often occurs.

Frequently during pregnancy the attending physician will recommend a low salt diet. In such cases Mountain Valley is particularly advisable because of its exceptionally low sodium content.

Diarrhea.

During infancy and sometimes adulthood, chronic diarrhea may be complicated by the development of tetany, a condition of muscular spasms which is due to inadequate calcium in the blood. A similar condition occurs in certain disturbances of the parathyroid glands. Under both of these circumstances, Mountain Valley Water, because of its usable calcium, is a valuable dietary adjunct.

"The other pamphlets in evidence we think are largely cumulative and need not be referred to.

"We think that all of the sales literature received in evidence was, as a matter of law, 'labeling' (see and compare, *Kordel v. United States*, 335 U.S. 345, 350; *United States v. Urbuteit*, supra, 335 U.S. 355, 358; *V. E. Irons, Inc. v. United States*, 1 Cir., 244 F. 2d 34, 39), and that the question whether the literature was 'labeling' was not an issue for the jury.

"While no question as to the validity of regulation § 1.11 (21 C.F.R.) defining 'special dietary uses' was raised in the trial, and although a federal appellate court is seldom justified in ruling upon a question not raised or ruled upon at the trial (*Warner v. Dworsky*, 8 Cir., 194 F. 2d 277, 278), the claimants challenge the validity of the regulation upon the ground that it was not issued pursuant to a hearing, evidence, and detailed findings of fact, as required by § 701(e) of the Act; 21 U.S.C. § 371(e). We cannot agree. The regulation is an interpretative ruling which merely states the meaning accorded to the phrase 'special dietary uses' by the Federal Food and Drug Administration. The ruling was adopted more than fifteen years ago. It did not prescribe the information which must appear on the label of the containers for foods for special dietary uses. The regulations prescribing the required information appear at 21 C.F.R. § 125.4. It is unnecessary to set them out in this opinion, since it is conceded that the labels on the bottles did not contain the required information. These regulations were adopted after notice and hearing, and the contention that they are invalid because the ruling § 1.11 explaining the meaning the Food and Drug Administration proposed to place on the phrase 'special dietary uses' was issued without notice and hearing, we regard as without merit.

"In *Gibson Wine Co., Inc. v. Snyder*, D.C. Cir., 194 F. 2d 329, 331, the court said:

The distinctive characteristics of interpretative rulings, as contrasted with so-called regulations, have long been recognized. Administrative officials frequently announce their views as to the meaning of statutes or regulations. Generally speaking, it seems to be established that 'regulations,' 'substantive rules' or 'legislative rules' are those which create law, usually implementary to an existing law; whereas interpretative rules are statements as to what the administrative officer thinks the statute or regulation means. * * *.

"In fairness to the claimants, it should be said that no suggestion has been made that the water in suit is adulterated or is not a wholesome, natural mineral spring water, suitable for human consumption. The Federal Food and Drug Administration, which the claimants evidently regard as unjustifiably intermeddling in their affairs, does not see eye to eye with them in regard to many of their representations of the curative, remedial, medicinal

and dietary properties of the water. Some of these representations are unquestionably fanciful, and some, no doubt extravagant. It seems unfortunate that the water should not be sold for what it is and in conformity with the applicable regulations of the Federal Food and Drug Administration.

"Our conclusion is that the water in suit was conclusively shown to be misbranded, because it was represented, by its labeling, for special dietary uses and because the labels on the bottles did not contain the information required by the applicable regulations.

"The judgment appealed from is reversed, and the case is remanded with directions to enter a judgment of condemnation."

Following the opinion of the court of appeals, the district court entered the following judgment on 12-19-57:

MILLER, *District Judge*: "The mandate of the United States Court of Appeals for the Eighth Circuit on the appeal of the libelant heretofore taken in this cause having been transmitted to the Clerk of this Court and filed herein on August 29, 1957, and the same having been brought to the attention of the Court, and upon consideration of the mandate and of the opinion of the United States Court of Appeals for the Eighth Circuit referred to in the mandate, in compliance therewith it is hereby

"ORDERED, ADJUDGED AND DECREED by this Court as follows:

"1. That the judgment of this Court entered herein on June 2, 1956, be and the same is hereby vacated and set aside and the libel of information reinstated;

"2. That pursuant to the verdict herein returned on June 6, 1956, with respect to the charges contained in Paragraphs 3 and 5 of said libel of information, alleging a misbranding of said water within the meaning of 21 USC 352(a) and 21 USC 343(a) because of false and misleading representations, which issues were submitted to the jury by consent of the parties, and in accordance with said jury verdict in favor of the claimants on all said issues, the charges contained in Paragraphs 3 and 5 of said libel of information are hereby dismissed with prejudice to the libelant;

"3. That as a matter of law the water in suit was misbranded within the meaning of 21 USC 343(j) because it was represented by its labeling as a food for special dietary uses by reason of its mineral content and because the labels on the bottles did not contain the information required by that section and by the applicable regulations appearing at 21 CFR 125.4; that by reason of said violation of 21 USC 343(j) said water under seizure is hereby condemned and forfeited to the use of the United States;

"4. That the United States Marshal for this District destroy the water libeled herein pursuant to this judgment of condemnation;

"5. That the libelant have and recover from the claimant, Mountain Valley Sales Company, the court costs and fees of this action, including storage and other proper expenses, which are directly referable to the misbranding adjudged herein."

After the judgment was entered on 12-19-57, the Government filed a Petition for a Writ of Mandamus asserting that the judgment was not in accord with the opinion of the court of appeals (247 F. 2d 473).

On 5-28-58, the court of appeals handed down the following opinion (256 F. 2d 89):

PER CURIAM.

"This Court, on August 6, 1957, in *United States v. 353 Cases* * * * *Mountain Valley Mineral Water*, a libel proceeding, reversed the judgment appealed from. The judgment in favor of the claimants was based upon the verdict of a jury finding all issues in their favor. The reversal of the judgment by this Court was based upon its conclusion that all of the sales literature involved in advertising the water was, as a matter of law, 'labeling'; that the evidence conclusively showed that the mineral water in suit had been recommended for special dietary uses, and that the labels on the bottles did not contain the information required by applicable regulations; that, at the close of the evi-

dence, the Government was entitled to a directed verdict, and that the trial court erred in denying the Government's motion for such a verdict. We remanded the case with directions to enter a judgment of condemnation. 247 F. 2d 473.

"The parties, after the remand of the case, were unable to agree upon the form of judgment required by our opinion and mandate. Judge Miller, for the District Court, entered a judgment of condemnation, but, over the objections of the Government, included in it a paragraph 2 reading as follows:

That pursuant to the verdict herein returned on June 6, 1956, with respect to the charges contained in Paragraphs 3 and 5 of said libel of information, alleging a misbranding of said water within the meaning of 21 U.S.C. § 352(a) and 21 U.S.C. § 343(a) because of false and misleading representations, which issues were submitted to the jury by consent of the parties, and in accordance with said jury verdict in favor of the claimants on all said issues, the charges contained in Paragraphs 3 and 5 of said libel of information are hereby dismissed with prejudice to the libelant.

This was done upon the theory that the claimants were, notwithstanding the reversal of the judgment appealed from in the libel proceeding, entitled to the benefit of so much of that judgment as was based upon the verdict of the jury with respect to the issue of alleged misrepresentations in labeling, insofar as that issue was claimed to be unrelated to the question of the alleged representations of the water for dietary uses. In providing for the recovery by the Government of costs and expenses in paragraph 5 of the judgment entered on our mandate, Judge Miller also added the words, 'which are directly referable to the misbranding adjudged herein.' To this the Government also objected.

"The purpose of the instant mandamus proceeding brought by the Government against Judge Miller is to secure the elimination from the final judgment of those portions above referred to.

"It is our opinion that every element and issue which inhered in the verdict upon which the judgment appealed from in the libel proceeding was based, disappeared from the case when this Court reversed that judgment and directed the entry of a judgment in favor of the Government on the ground that, under the evidence and as a matter of law, it was entitled to a judgment of condemnation at the close of the evidence. We are satisfied that the Government is entitled to have eliminated the challenged portions of the judgment which was entered after the remand of the libel proceeding.

"We think it is unnecessary to issue a writ of mandamus, since we have no doubt that Judge Miller will readily comply with this Court's views as to the form of judgment required by its mandate. He is directed to amend the judgment by eliminating paragraph 2 and striking out in paragraph 5 the words, 'which are directly referable to the misbranding adjudged herein.' As so amended the judgment will conform to the mandate of this Court."

A rehearing was denied by the court of appeals on 6-27-58. The claimants then applied to the United States Supreme Court for a writ of certiorari which was denied on 10-13-58 (358 U.S. 834). Subsequently, on 10-24-58, the judgment of the district court of December 19, 1957, was amended to comply with the order of the court of appeals of May 28, 1958, and the application for writ of mandamus was dismissed. The amended judgment contained simply a finding that the water under seizure was misbranded under Section 403(j), and provided for destruction of the water, with assessment against claimant of costs without qualification.

Thereafter, the claimants, Mountain Valley Sales Co. and H. B. McFarling, filed claims and motions for return of the water, containers, and pamphlets. On 6-24-59, the court denied the motion of Mountain Valley Sales Co., and ordered the water destroyed. In addition, the court ordered, after the destruction of the water, the release of the bottles, carboys, containers and pamphlets to the claimants.

The order further provided that neither it, nor the return of the articles and pamphlets to the claimants thereunder would constitute or imply any adjudication upon the issues of the truth or falsity of the claims appearing in said pamphlets under Sections 502(a) and 403(a) as charged in the libel, as the question of such truth or falsity had not been adjudicated.

26598. Bio-Zyme tablets. (F.D.C. No. 43314. S. No. 32-856 P.)

QUANTITY: 1 drum of 8,300 tablets at East Orange, N.J.

SHIPPED: 6-4-59, from Inwood, Long Island, N.Y.

LABEL IN PART: (Btl. label attached to drum) "100 Gelvets BIO-ZYME Nutritional Supplement * * * Each Bio-Zyme Gelvet contains * * * Vitamin B-1 * * * 5 mg. *MDAR* 500% Niacinamide * * * 20 mg. * Vitamin B-12 activity 6 mcg. *MDAR*—Minimum daily adult requirement * need in human nutrition established but no *MDAR* established Sole Distributors—American Pharmaceutical Products Co. 3033 Newark, New Jersey."

LIBELED: 7-27-59, Dist. N.J.

CHARGE: 402(b)(1)—while held for sale, the valuable constituents, vitamin B₁, vitamin B₁₂, and niacinamide, had been in part omitted or abstracted from the article; and 403(a)—while held for sale, the label statement "Bio-Zyme is a scientifically formulated synergistic combination of enzymatic factors with amino acids, minerals, protein and carbohydrate digestive enzymes plus vitamins of the B Complex group * * *" was false and misleading since there is no scientific justification for formulating a synergistic combination of enzymatic factors, and the label statement "Niacinamide * * * need in human nutrition established but no *MDAR* established" was false and misleading since the minimum daily requirement for niacinamide has been established.

DISPOSITION: 8-27-59. Default—destruction.

26599. Protein dietary supplement. (F.D.C. No. 43545. S. Nos. 69-681/2 P.)

QUANTITY: 1 case containing 10 1,000-tablet btls., 33 cases, 12 300-tablet btls. each, 12 cases, 12 80-tablet btls. each, and 7 1,000-tablet btls., 23 300-tablet btls., and 60 80-tablet btls., at Minneapolis, Minn.

SHIPPED: Between 4-30-59 and 6-17-59, from Omaha, Nebr., by Vitamin Industries.

LABEL IN PART: (Btl.) "Verne Gagne's Fortified Protein Three P's Protein Power Pack Dietary Supplement Distributed by Vitamin Industries, 1511 Davenport St., Omaha, Nebr. * * * Ingredients: The readily available natural food protein factors in Three P's are composed of a special, skillfully blended formulation consisting of Soya Lecithin, Soy Powder, Solids of defatted, dehydrated milk, barley malt, Sucrose, Dextrose, Debittered Special Strain Yeast, with natural purified Bone Meal."

LIBELED: 9-23-59, Dist. Minn.

CHARGE: 403(a)—when shipped, the label statements, "Fortified Protein," "Protein Power Pack," "Champion of the World," and "Protein Concentrate," together with a picture of an athlete on the label, represented and suggested that the article was a fortified protein, that it was a protein concentrate, that its protein content would supply a significant amount of strength and power, and that the user would develop an athletic physique, which statements and design were false and misleading since they were contrary to fact; 403(e)(2)—a portion of the 80-tablet size bottle failed

to bear a label containing an accurate statement of the quantity of contents (the label statement "80 tablets" was inaccurate); and 403(j)—the article purported to be and was represented as a food for special dietary use by reason of its protein content for the purpose of controlling body weight and its label failed to bear, as required by regulations, a statement of the percent by weight of protein, fat, and available carbohydrates in the article, and a statement of the number of available calories supplied by a specified quantity of the article.

DISPOSITION: 11-9-59. Default—destruction.

26600. Baker's Cab-Plex. (F.D.C. No. 44360. S. No. 90-663 P.)

QUANTITY: 2 ctns., 25,500 capsule total, and 38 100-capsule btls., 3 500-capsule btls., and 4 1,000-capsule btls., at Boston, Mass., in possession of Chester A. Baker Laboratories, Inc.

SHIPPED: 11-19-58, from Detroit, Mich., by Gelatin Products Div., R. P. Scherer Corp.

LABEL IN PART: (Ctn.) "Quantity 18,000 Customers Order #17892 B-Complex Capsules G.P. Lot #95144 Product #35381 Ingredients in each capsule Thiamine Hydrochloride 5 mg. * * * Niacinamide 20 mg. * * * Folic Acid 0.1 mg. Vitamin B-12 activity (from Cobalamin Concentrate) 1 mcg. * * * Gelatin Products Division R. P. Scherer Corporation, Detroit 13, Michigan," and (btl.) "Baker's Cab-Plex Vitamin B-Complex Each Capsule Contains: Thiamin Chloride (B₁) U.S.P. 5 mg. * * * Distributed by Chester A. Baker Laboratories, Inc. Boston, Massachusetts * * * The minimum daily requirement of niacinamide has not been established. The need for Vitamin B₁₂ and Folic Acid * * * has not been established. 81229."

RESULTS OF INVESTIGATION: Examination showed that the article contained approximately 60 percent of the declared amount of vitamin B₁. The capsules in the bottles were repacked by the dealer from the bulk stock shipped and labeled as described above.

LIBELED: 3-3-60, Dist. Mass.

CHARGE: 402(b)(1)—while held for sale, the valuable constituent, vitamin B₁, had been in part omitted or abstracted from the article; 403(a)—while held for sale, the label statement (bulk & repack) "Each Capsule * * * Thiamin Chloride * * * 5 mg." was false and misleading; and the label statements "The minimum daily requirement of niacinamide has not been established. The need for Vitamin B₁₂ and Folic Acid * * * has not been established." were false and misleading since they were contrary to fact; and when shipped, the label statement "Niacinamide 20 mg.* The daily adult requirement has not been established." was false and misleading since it was contrary to fact; and 403(j)—when shipped, and while held for sale, the label of the article failed to bear, as required by regulations, a statement of the minimum daily requirement for niacinamide supplied by such food when consumed in a specified quantity during a period of one day.

DISPOSITION: 4-11-60. Default—delivered to a charitable institution.

INDEX TO NOTICES OF JUDGMENT F.N.J. NOS. 26551-26600

PRODUCTS

	N.J. No.		N.J. No.
Baker's Cab-Plex capsules-----	26600	Fruits and vegetables-----	26582-26593
Beans, green, canned-----	26584, 26585	fruit, dried-----	26582, 26583, 26558
cut -----	26586	tomatoes and tomato prod-	
cocoa -----	26570, 26596	ucts-----	26589-26593
lima, dried-----	26587	vegetables -----	26584-26588
mung, dried-----	26558	Grits -----	¹ 26560
Bio-Zyme tablets-----	26598	corn -----	26576
Butter -----	26579, 26580	Lentils -----	26588
Candy. See Confectionery.		Lima beans, dried-----	26587
Cereals and cereal products---	26551-	Milk, evaporated-----	26581
	26569	Mineral water-----	² 26597
Chickpeas, dried-----	26558	Mung beans, dried-----	26558
Cocoa -----	26573	Nuts -----	26594-26596
beans -----	26570, 26596	Peanuts, shelled-----	26594-26596
powder -----	26571	unshelled -----	¹ 26560
press cake-----	26572	Popcorn, unpopped-----	26557-26559
Confectionery -----	26574, 26575	Poppyseed -----	26556
Corn grits-----	26576	Raisins -----	26582, 26583
Cornmeal -----	26558, 26576	Rice -----	¹ 26560-26564
Currants, dried-----	26558	Sugar -----	26576-26578
Dairy products-----	26579-26581	Tomato(es), canned-----	26589-26591
Flour -----	26551-26556, ¹ 26560	catsup -----	26592
		puree -----	26593
		Vegetable fat coating-----	26573
		Wheat -----	26565-26569

SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS

	N.J. No.		N.J. No.
A & P, Great, Tea Co.:		Compex Corp.:	
canned tomatoes-----	26589	cocoa powder-----	26571
American Pharmaceutical Prod-		Coulter & Coulter, Inc.:	
ucts Co.:		flour -----	26552
Bio-Zyme tablets-----	26598	Crane, E. J., & Sons:	
American Stores Co.:		flour -----	26554
tomato catsup-----	26592	Dalton, Gordon, Co.:	
Baker, Chester A., Laboratories,		flour -----	26555
Inc.:		Davis, S., Co.:	
Baker's Cab-Plex capsules----	26600	flour -----	26553
Basgal, John:		Day, R. M.:	
unpopped popcorn-----	26559	lentils -----	26588
C. & E. Cannery, Inc.:		Edgar's Warehouses, Inc.:	
tomato catsup-----	26592	sugar -----	26577
Carnation Co.:		Elman, Lawrence:	
evaporated milk-----	26581	rice, flour, grits, and unshelled	
Coastal Bonded Warehouse:		peanuts -----	¹ 26560
rice, flour, grits, and unshelled		Fair View Packing Co., Inc.:	
peanuts -----	¹ 26560	tomato puree-----	26593

¹ (26560) Injunction issued.
² (26597) Seizure contested. Contains opinions of the courts.

	N.J. No.		N.J. No.
Gelatin Products, Div. of R.P. Scherer Corp.:		Mountain Valley Water Co.:	
Baker's Cab-Plex capsules----	26600	mineral water----- ²	26597
Grisez, John F., Co.:		Occident Elevator:	
dried lima beans-----	26587	wheat -----	26565
Helmken, John C., Jr.:		Osborne-McMillan Elevator Co.:	
sugar, corn grits, and corn-		wheat -----	26568
meal -----	26576	Raggedy Ann Corp.:	
Helmken, John C., & Co.:		canned tomatoes-----	26590, 26591
sugar, corn grits, and corn-		Roundup Elevator Co.:	
meal -----	26576	wheat -----	26566
Helmken, W. H.:		Rubin, Irving:	
sugar, corn grits, and corn-		rice, flour, grits, and unshelled	
meal -----	26576	peanuts ----- ¹	26560
Hoosac Storage & Warehouse		Scherer, R. P., Corp. See Gelatin	
Co.:		Products.	
unpopped popcorn, dried cur-		Service Wholesale Co.:	
rants, dried chickpeas, dried		flour -----	26551
mung beans, and cornmeal_	26558	Smith, Allen V., Inc.:	
Hy-Pop, Inc.:		dried lima beans-----	26587
unpopped popcorn-----	26557	Swartz Creek Elevator & Lumber	
Igleheart Bros.:		Co.:	
wheat -----	26569	wheat -----	26567
Indiana Packing Co.:		Tri-State Co-operative Associa-	
canned tomatoes-----	26590	tion:	
Kwong On Lung Importers:		butter -----	26579, 26580
rice -----	26562	Tzoulakis, Michel, & Co., Ltd.:	
Lawrence Packing Co.:		raisins -----	26582
canned cut green beans-----	26586	Vitamin Industries:	
Longview Farms, Inc.:		protein dietary supplement----	26599
canned tomatoes-----	26589	Washington Chocolate Co., Inc.:	
Massey-Hite Grocery Co., Inc.:		cocoa beans-----	26570
rice -----	26564	shelled peanuts and cocoa	
Mountain Valley Distributors:		beans -----	26596
mineral water----- ²	26597	West Side Cold Storage Co., Inc.:	
Mountain Valley Spring Co.:		candy -----	26574
mineral water----- ²	26597	raisins -----	26583
		Zimonick Bros. Co.:	
		canned tomatoes-----	26591

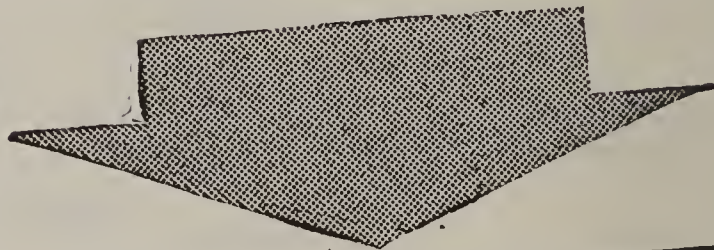
¹ (26560) Injunction issued.² (26597) Seizure contested. Contains opinions of the courts.

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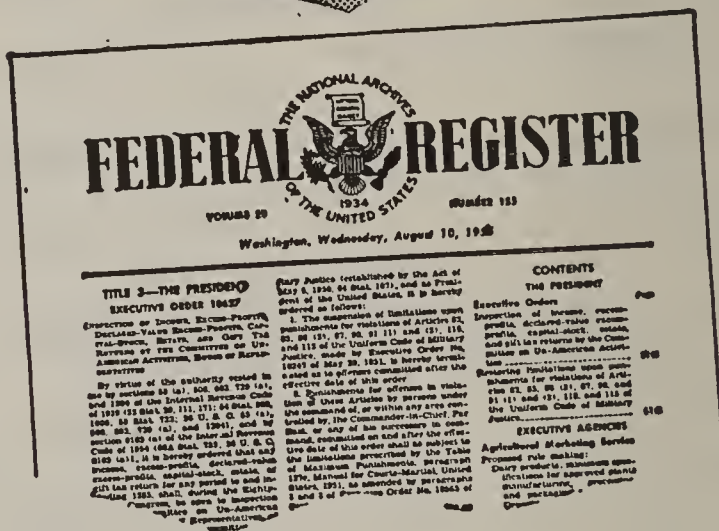
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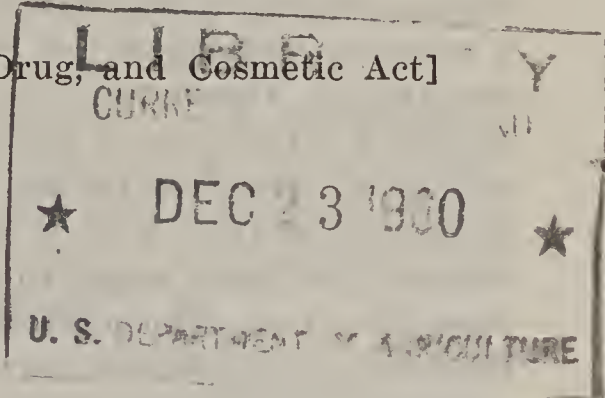
U.S. Department of Health, Education, and Welfare
FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

26601-26650

FOODS



The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were adulterated or misbranded within the meaning of the Act when introduced into and while in interstate commerce, when shipped to a holder of a guaranty, or while held for sale after shipment in interstate commerce. These cases involve (1) seizure proceedings in which decrees of condemnation were entered by default, or by consent; (2) criminal proceedings which were terminated upon pleas of guilty or nolo contendere; and (3) an injunction proceeding terminated upon the entry of a temporary injunction by consent. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the criminal and injunction proceedings are against the *firms* or *individuals* charged to be responsible for violations.

Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D.C., November 16, 1960.

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SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN VIOLATIONS
REPORTED IN F.N.J. NOS. 26601-26650

Adulteration, Section 402(a)(2), the article was a raw agricultural commodity and contained a pesticide chemical which was unsafe within the meaning of Section 408(a); Section 402(a)(3), the article consisted in part of a filthy or decomposed substance, or it was otherwise unfit for food; Section 402(a)(4), the article had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth; Section 402(b)(1), a valuable constituent had been in whole or in part omitted or abstracted from the article; Section 402(b)(2), a substance had been substituted in whole or in part for the article; Section 402(b)(4), a substance had been added to the article or mixed or packed therewith so as to make it appear better or of greater value than it was; Section 408(a), a poisonous or deleterious pesticide chemical had been added to a raw agricultural commodity, and no tolerance or exemption from the requirement of a tolerance had been prescribed by the Secretary of Health, Education, and Welfare.

Misbranding, Section 403(a), the labeling of the article was false and misleading; Section 403(e)(2), the article was in package form and it failed to bear a label containing an accurate statement of the quantity of contents in terms of weight; Section 403(f), a word, statement, or other information required by or under authority of the Act to appear on the label or labeling was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; Section 403(h)(2), the article purported to be and was represented as a food for which a standard of fill had been prescribed by regulations and it fell below such standard and its label failed to bear a statement that it fell below such standard; Section 403(j), the article purported to be and was represented for special dietary uses, and its label failed to bear such information concerning its vitamin, mineral, and other dietary properties as the Secretary determined to be, and by regulation prescribed as, necessary in order fully to inform purchasers as to its value for such uses.

CEREALS AND CEREAL PRODUCTS

FLOUR

26601. Flour. (F.D.C. No. 44125. S. No. 41-803 R.)

QUANTITY: 40 100-lb. bags at Fresno, Calif., in possession of Lawrence Warehouse Co.

SHIPPED: 12-29-58, from Seattle, Wash.

LIBELED: 4-15-60, S. Dist. Calif.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 6-2-60. Default—destruction.

26602. Flour. (F.D.C. No. 44381. S. Nos. 4-102/4 R.)

QUANTITY: 18 bales, 5 10-lb. bags each, and 39 bales, 10 5-lb. bags each, at Charlottesville, Va., in possession of Dettor, Edwards & Morris, Inc.

SHIPPED: Prior to 2-24-60, from Minneapolis, Minn.

LIBELED: 3-23-60, W. Dist. Va.

CHARGE: 402(a) (3)—contained insects; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 6-9-60. Default—delivered to a public institution for use as animal feed.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS

26603. Wheat. (Inj. No. 374.)

COMPLAINT FOR INJUNCTION FILED: 2-10-60, W. Dist. Mo., against the Empire Cold Storage & Ice Co., a corporation, t/a Empire Elevator, Kansas City, Mo., and against W. Ralph Wilkerson, president of the corporation, James E. Wilkerson, vice president and treasurer, and Lewis A. Davis, superintendent and manager of the corporation's grain elevator at Kansas City, Mo.

CHARGE: The complaint alleged that the defendants were engaged in operating a grain elevator for the storage and distribution of wheat for human consumption, and that the defendants were causing to be introduced into interstate commerce, wheat which was adulterated within the meaning of 402(a) (3) by reason of contamination with rodent, insect, and bird filth, and within the meaning of 402(a) (4) by reason of being held at the defendants' Kansas City elevator under insanitary conditions.

It was alleged further that the insanitary conditions resulted from and consisted of the presence of active rodent burrows in the stone piers in the basement; a dead mouse at the bottom of the basement stairway; dead mice in the center of the basement; a dead mouse under the track scale bed; stagnant water on the basement floor; sour and moldy grain residues in the elevating boots in the basement; one dead mouse, rodent excreta pellets, bird excreta, and bird feathers in the wheat in the car dump; rodent excreta pellets on a ledge above the car dump; openings in the work floor that permit the entry of rodents, insects, and birds; a loose-fitting north door that permits the entry of rodents onto the work floor; uncovered horizontal conveyors that permits the entry of rodents; dead mice on the work floor; rodent and bird excreta on the work floor; insect trails in dust residues on the bin floor and the scale floor of the elevator; bird excreta along the south wall of the head house floor beneath windows that are loosely and inadequately screened; the presence on the surface of the wheat in the bins of rodent excreta, insect larvae, bird excreta, bird feathers, insects; the presence of weevils in the wheat in the bins; loose-fitting and missing sheathing around the track scale outside the elevator that permits rodent entry to the basement; a spout from the car grain dump to the basement that permits rodent entry; and the presence of weeds, piles of boards, old equipment and junk outside the elevator that affords a harborage for rodents.

The complaint alleged further that the defendants were well aware that their activities were in violation of the Act in that inspections of the defendants' grain elevator at Kansas City, Mo., had been made by inspectors of the Food and Drug Administration on September 16, 17, and 18, 1959, and October 8 and 9, 1959, at which times the insanitary conditions in the elevator were called to the defendants' attention; and that despite such warnings, the defendants failed to correct the insanitary conditions and continued to introduce into interstate commerce wheat which was adulterated as specified above.

DISPOSITION: On 2-11-60, the court issued a temporary restraining order enjoining the defendants from introducing into interstate commerce, wheat which was adulterated as described in the complaint. The temporary restraining order was continued in effect in accordance with orders of extension entered with the consent of the parties. A preliminary injunction was entered on 4-21-60, and on 5-23-60 a temporary injunction was entered with the consent of the parties. Under the temporary injunction the defendants were restrained for the period beginning 5-23-60 and ending on 4-21-61, from introducing or causing to be introduced and delivering or causing to be delivered for introduction into interstate commerce, wheat for human consumption and any similar article of food which was adulterated as alleged in the complaint. The defendants were also restrained under the temporary injunction from introducing or causing to be introduced and delivering or causing to be delivered for introduction into interstate commerce, wheat for human consumption held at the defendants' Kansas City elevator unless and until:

(a) the same standards of cleanliness and physical facilities as now existing at said elevator, which have recently been brought into compliance with the Act and inspected and approved by Pure Food and Drug representatives are maintained, with respect to protection from rodent, insect, and bird filth, means of ingress and egress, and any similar insanitary conditions which may result in the contamination of wheat for human consumption or any similar article of food;

(b) all of the wheat which is on hand at said elevator be inspected by representatives of the Food and Drug Administration and under their supervision all or part may be loaded out, and that wheat which does not meet announced industry cleanliness tolerances and standards, as defined herein, shall be destroyed, denatured for use as animal feed, or cleaned and otherwise reconditioned under the supervision of a duly authorized representative of the Food and Drug Administration, Department of Health, Education, and Welfare, and thus brought into compliance with the provisions of the Act, all costs of such supervision to be borne by the defendants; that wheat which meets announced industry cleanliness tolerances and standards (i.e. no more than 1 rodent pellet per pint of grain and no more than 1% insect-damaged kernels), shall be released from this injunction and may be shipped, returned to storage, or otherwise disposed of and handled in any manner desired by defendants;

(c) immediately prior to the end of the period of the injunction an inspection is made of defendants' elevator by a duly authorized representative of the Food and Drug Administration, Department of Health, Education, and Welfare, and a report made to the court which shows that the above-described or any similar insanitary conditions no longer exist and that the wheat which does not meet industry standards has been destroyed, denatured, or brought into compliance with the law as provided in subparagraph (b) above.

26604. Wheat. (F.D.C. No. 44078. S. No. 28-204 R.)

QUANTITY: 120,000 lbs. at Minneapolis, Minn.

SHIPPED: 2-19-60, from Crosby, N. Dak., by Farmers Union Elevator Co.

LIBELED: 3-7-60, Dist. Minn.

CHARGE: 402(a) (3)—contained rodent excreta pellets when shipped.

DISPOSITION: 3-17-60. Consent—claimed by Farmers Union Grain Terminal Association, St. Paul, Minn. Segregated; 15,450 lbs. denatured for use as animal feed.

26605. Wheat. (F.D.C. No. 44463. S. No. 30-009 R.)

QUANTITY: 105,120 lbs. at Minneapolis, Minn.

SHIPPED: 5-6-60, from Warner, S. Dak., by Warner Cooperative Elevator Co.

LIBELED: 5-20-60, Dist. Minn.

CHARGE: 402(a) (3)—contained rodent excreta pellets when shipped.

DISPOSITION: 5-25-60. Consent—claimed by Farmers Union Grain Terminal Association, Minneapolis, Minn. Segregated; 9,370 lbs. converted into animal feed.

26606. Wheat. (F.D.C. No. 44479. S. No. 29-628 R.)

QUANTITY: 112,800 lbs. at Minneapolis, Minn.

SHIPPED: 4-28-60, from Esmond, N. Dak., by Esmond Equity & Trading Co.

LIBELED: 6-1-60, Dist. Minn.

CHARGE: 402(a) (3)—contained rodent excreta pellets when shipped.

DISPOSITION: 6-6-60. Consent—claimed by Farmers Union Grain Terminal Association, St. Paul, Minn. Segregated; 13,070 lbs. destroyed.

26607. Wheat. (F.D.C. No. 44487 S. No. 43-701 R.)

QUANTITY: 114,000 lbs. at Auburn, Wash.

SHIPPED: 5-16-60, from Brockway, Mont., by Farmers Union Elevator.

LIBELED: 6-7-60, W. Dist. Wash.

CHARGE: 402(a) (3)—contained rodent excreta pellets when shipped.

DISPOSITION: 6-17-60. Consent—claimed by Farmers Union Grain Terminal Association, Great Falls, Mont., and denatured.

26608. Wheat. (F.D.C. No. 44476. S. No. 23-042 R.)

QUANTITY: 36,000 lbs. at Parkville, Mo.

SHIPPED: 5-25-60, from Clatonia, Nebr., by Continental Grain Co.

LIBELED: 6-3-60, W. Dist. Mo.

CHARGE: 402(a) (3)—contained rodent excreta pellets when shipped.

DISPOSITION: 6-28-60. Consent—claimed by Continental Grain Co. and denatured for use as animal feed.

26609. Wheat. (F.D.C. No. 44668. S. No. 4-207 R.)

QUANTITY: 123,000 lbs. at Baltimore, Md.

SHIPPED: 6-3-60, from Toledo, Ohio, by Michigan Elevator Exchange.

LIBELED: On or about 6-21-60, Dist. Md.

CHARGE: 402(a) (3)—contained rodent excreta pellets when shipped.

DISPOSITION: 7-5-60. Consent—claimed by Southern States Grain Marketing Cooperative, Inc., Baltimore, Md., and reconditioned for sale as animal feed.

26610. Rice. (F.D.C. No. 44287. S. Nos. 16-129 P, 88-402 P.)

INFORMATION FILED: 3-31-60, E. Dist. Ky., against M-B Food Sales, Inc., Lexington, Ky., and William H. Buckles, president of the corporation.

ALLEGED VIOLATION: Between 10-8-58 and 11-17-59, while quantities of rice were being held for sale after shipment in interstate commerce, the defendants caused such rice to be held in a building that was accessible to rodents and to be exposed to contamination by rodents, which act resulted in the article being adulterated.

CHARGE: 402(a) (3)—contained mouse pellets, rodent urine, and rodent hairs; and 402(a) (4)—held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 5-23-60. \$200 fine against each defendant.

26611. Rice. (F.D.C. No. 44469. S. No. 22-136 R.)

QUANTITY: 60 100-lb. bags at Youngstown, Ohio, in possession of Sniderman Bros.

SHIPPED: 2-9-60, from Stuttgart, Ark.

LIBELED: 5-26-60, N. Dist. Ohio.

CHARGE: 402(a) (3)—contained rodent urine and rodent excreta pellets; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 6-22-60. Default—destruction.

26612. Unpopped popcorn. (F.D.C. No. 40573. S. No. 69-908 M.)

QUANTITY: 49 100-lb. bags at Upper Darby, Pa.

SHIPPED: 1-31-57, from Bremen, Ind.

LIBELED: 8-16-57, E. Dist. Pa.

CHARGE: 402(a) (3)—contained insects while held for sale.

DISPOSITION: 8-21-57. Consent—destruction.

DAIRY PRODUCTS

BUTTER

26613. Butter. (F.D.C. No. 43494. S. Nos. 77-893 P, 77-988/9 P, 77-991 P.)

QUANTITY: 90 60-lb. cubes at Toledo, Ohio.

SHIPPED: 6-23-59 and 7-8-59, from Imlay City, Mich., by Michigan Milk Producers Association.

LIBELED: 8-14-59, N. Dist. Ohio.

CHARGE: 402(b) (2)—when shipped, a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: 9-3-59. Consent—claimed by Michigan Milk Producers Association, and reworked to bring it into compliance with the law.

26614. Butter. (F.D.C. No. 43730. S. Nos. 15-863/4 R.)

QUANTITY: 385 lbs. in ½-lb. rolls, and 145 lbs. in ¼-lb. prints, at Louisville, Ky.

SHIPPED: 2-25-60, from Lanesville, Ind., by Lanesville Creamery Co.

LABEL IN PART: "Klarer Creamery Butter Packed For The Klarer Company Louisville, Ky."

RESULTS OF INVESTIGATION: Analysis showed the article to be made from decomposed cream.

LIBELED: 3-10-60, W. Dist. Ky.

CHARGE: 402(a)(3)—contained a decomposed substance when shipped.

DISPOSITION: 6-29-60. Consent—claimed by Henry J. Fachinger, t/a Lanesville Creamery Co., and converted into butter oil.

26615. Butter. (F.D.C. No. 43508. S. No. 14-578 R.)

QUANTITY: 25 cases, 32 1-lb. pkgs. each, at Louisville, Ky.

SHIPPED: 8-13-59, from Lanesville, Ind., by Lanesville Creamery Co.

LABEL IN PART: (Pkg.) "Klarer Creamery Butter Packed For The Klarer Company Louisville, Ky."

RESULTS OF INVESTIGATION: Analysis showed the article to be made from decomposed cream.

LIBELED: 3-28-60, W. Dist. Ky.

CHARGE: 402(a)(3)—contained a decomposed substance when shipped.

DISPOSITION: 6-29-60. Consent—claimed by Henry J. Fachinger, t/a Lanesville Creamery Co., and converted into butter oil.

CREAM

26616. Cream. (F.D.C. No. 44293. S. Nos. 8-602/3 P, 8-608 P, 11-255 P, 17-225 P, 17-578 P, 17-580 P, 50-061 P.)

INFORMATION FILED: 4-19-60, S. Dist. Ohio, against Fairmont Foods Co., a corporation, Zanesville, Ohio, and Stuart C. Sherwood, Southeastern Div. Manager of the corporation.

SHIPPED: Between 7-14-58 and 7-31-59, from Ohio to Pennsylvania.

CHARGE: 402(a)(3)—the article consisted in part of decomposed cream and a portion of the article contained flies, roaches, beetles, ants, vinegar flies, spiders, and other small insects.

PLEA: Guilty.

DISPOSITION: 6-7-60. Corporation fined \$8,000 and individual fined \$1,000.

EGGS

26617. Frozen eggs. (F.D.C. No. 42164. S. No. 15-089 P.)

INFORMATION FILED: 2-22-59, M. Dist. Tenn., against Technical Egg Products, Inc., Nashville, Tenn., Seymour M. Levin, president of the corporation, and Wilbert Keith, an employee of the corporation.

SHIPPED: 6-14-58, from Alabama to Tennessee.

CHARGE: 402(a)(3)—contained decomposed eggs and incubator reject eggs when shipped.

PLEA: Guilty.

DISPOSITION: 6-8-59. Corporation fined \$500, Levin fined \$500, and Keith fined \$200. All fines were suspended on condition that no other violations occur.

26618. Frozen eggs. (F.D.C. No. 43215. S. Nos. 1-454 P, 32-717 P, 56-581 P.)

INFORMATION FILED: 10-29-59, S. Dist. Fla., against Robert Karan, president of Superior Frozen Foods, Inc., Lakeland, Fla., Harold Hulsey, vice president of the corporation, and Mack B. Jewell.

SHIPPED: (Count 1), on 10-20-58, from Florida to New York; (count 2), 1-14-59, from Florida to New Jersey.

CHARGE: 402(a)(3)—contained decomposed eggs.

DISPOSITION: Following a plea of guilty by Robert Karan to count 1 of the information, the United States District Court for the Southern District of Florida on 12-11-59 fined Karan \$500, imposed a sentence of 6 months in jail, which was suspended, and placed him on probation for 5 years.

Pursuant to the requests of Harold Hulsey and Mack Jewell, the cases against such defendants were transferred to the Middle District of Tennessee. Thereafter, pleas of guilty were entered by Hulsey to count 1 and by Jewell to count 2 of the information. On 3-15-60, the United States District Court for the Middle District of Tennessee fined Hulsey \$250 and sentenced him to jail for 4 months. On the same day, the court imposed against Jewell a total fine of \$250 and a total sentence of 4 months in jail applicable to the instant case and to the case against Jewell reported in food notice of judgment No. 26619.

26619. Incubator reject eggs. (F.D.C. No. 42471. S. No. 15-098 P.)

INFORMATION FILED: 12-31-59, E. Dist. Tex., against West Texas By-Products, Inc., Center, Tex., Mack B. Jewell, manager of the corporation, and Henry S. Silberman, president of the corporation.

SHIPPED: 7-24-58, from Texas to Tennessee.

CHARGE: 402(a)(3)—contained decomposed eggs and incubator reject eggs.

DISPOSITION: Pursuant to the requests of the defendants, the case against Mack Jewell was transferred to the Middle District of Tennessee, and the cases against the other defendants were transferred to the Western District of Texas. Thereafter, the defendants entered pleas of guilty. On 1-11-60, the United States District Court for the Western District of Texas imposed a fine of \$100 against the corporation and Henry Silberman jointly. On 3-15-60, the United States District Court for the Middle District of Tennessee imposed against Mack Jewell a total fine of \$250 and a total sentence of 4 months in jail applicable to the instant case and to the case against Jewell reported in food notice of judgment No. 26618.

26620. Incubator reject eggs. (F.D.C. No. 42459. S. No. 15-098 P.)

INFORMATION FILED: 2-22-59, M. Dist. Tenn., against A & R Produce Co., a corporation, Nashville, Tenn., Albert H. Mott, president, and Charles Lane, an employee.

SHIPPED: 7-24-58, from Texas to Tennessee.

CHARGE: 402(a)(3)—contained decomposed eggs and incubator reject eggs.

PLEA: Nolo contendere.

DISPOSITION: 3-15-60. Corporation fined \$500; Mott fined \$250 and sentenced to jail for 4 months; and Lane placed on probation for 3 years.

FISH AND SHELLFISH

26621. Fresh dressed whitefish. (F.D.C. No. 42192. S. Nos. 14-654/5 P.)

QUANTITY: 10 60-lb. boxes and 9 60-lb. boxes at Chicago, Ill.

SHIPPED: 9-2-58, from Winnipeg, Canada, by Booth Fisheries Canadian Co., Ltd., and Keystone Fisheries, Ltd.

LABEL IN PART: (Tag) "Dsd. * * * Med. Whites Booth Fisheries Canadian Co., Ltd., Winnipeg, Man. Canada" and "Keystone Fisheries Ltd., Winnipeg, Manitoba * * * Dsd. Med. Whites," and (box) "South Indian Lake."

LIBELED: 9-15-58, N. Dist. Ill.

CHARGE: 402(a)(3)—contained parasitic cysts when shipped.

DISPOSITION: 10-17-58. Consent—claimed by Pick-Shapiro Fisheries, Inc., Chicago, Ill., and exported to original shippers in Canada.

26622. Frozen whitefish. (F.D.C. No. 44251. S. No. 85-619 P.)

QUANTITY: 5 boxes, 420 lbs. total, at New York, N. Y.

SHIPPED: 11-12-59, from Montreal, Canada.

LIBELED: 3-8-60, S. Dist. N. Y.

CHARGE: 402(a)(3)—contained parasitic cysts and decomposed fish while held for sale.

DISPOSITION: 4-2-60. Default—destruction.

26623. Frozen whitefish fillets. (F.D.C. No. 44173. S. No. 85-607 P.)

QUANTITY: 63 ctns., 6,090 lbs. total, in slabs of about 50 fillets, at New York, N. Y.

SHIPPED: 2-19-59, from Montreal, Canada, by Straker-Cross Ltd.

LABEL IN PART: (Ctn.) "Product of Canada Wall Eye" and (tag on slabs) "The Famous Lake Food Brand Quick Frozen Walleyed Pike Fillets Canadian Fish Producers Limited Winnipeg Product of Canada."

RESULTS OF INVESTIGATION: Examination showed the article to be frozen whitefish fillets which were in part decomposed.

LIBELED: 1-13-60, S. Dist. N. Y.

CHARGE: 402(a)(3)—contained decomposed fish fillets while held for sale; and 403(a)—when shipped, the label statements (ctn.) "Wall Eye" and (tag) "Walleyed Pike Fillets" were false and misleading as applied to the article which consisted of whitefish fillets.

DISPOSITION: 2-18-60. Default—destruction.

26624. Frozen dressed whiting. (F.D.C. No. 44367. S. No. 6-502 R.)

QUANTITY: 64 ctns., 10 5-lb. boxes each, at Boston, Mass.

SHIPPED: 2-9-60 and 2-15-60, from Gloucester, Mass., by Dalco Fisheries, Inc., to Wilkes-Barre, Pa., and subsequently returned to Massachusetts.

LABEL IN PART: (Box) "Dalco Fisheries * * * Quick Frozen Headless Dressed Whiting * * * Gloucester, Mass."

LIBELED: 3-7-60, Dist. Mass.

CHARGE: 402(a)(3)—when shipped, the article contained decomposed fish; 402(b)(2)—partially eviscerated whiting had been substituted in part for "Dressed Whiting"; and 402(b)(4)—partially eviscerated whiting had been packed with the article so as to make it appear to be dressed whiting, which is better and of greater value than the article; and 403(a)—the label statement "Dressed Whiting" was false and misleading.

DISPOSITION: 4-11-60. Default—delivered to a public institution for use as animal feed.

26625. Frozen jack pike (fish). (F.D.C. No. 44264. S. No. 99-283 P.)

QUANTITY: 3 boxes, 216 lbs. total, at New York, N.Y.

SHIPPED: 12-18-59, from Canada.

LIBELED: 3-2-60, S. Dist. N.Y.

CHARGE: 402(a) (3)—contained decomposed fish while held for sale.

DISPOSITION: 3-22-60. Default—destruction.

26626. Canned tuna. (F.D.C. No. 43452. S. No. 76-184 P.)

QUANTITY: 280 cases, 48 6½-oz. cans each, at St. Louis, Mo.

SHIPPED: 7-2-59, from Aberdeen, Wash., by West Coast Fish Co., Inc.

LABEL IN PART: (Can) "Fres-Shore Brand Chunk Style Light Tuna * * *
The Kroger Co. Cincinnati 1, Ohio."

LIBELED: 9-23-59, E. Dist. Mo.

CHARGE: 403(h) (2)—when shipped, the article fell below the standard of fill of container for canned tuna since the regulations provide that the standard is a fill such that the average weight of pressed cake from 24 cans in a container designated as 307 x 113 is not less than 3.92 ounces, whereas the article was in containers of the above-mentioned size and the average weight of pressed cake from 24 cans was less than 3.92 ounces, and the label of the article failed to bear a statement that it fell below such standard.

DISPOSITION: 6-24-60. Consent—claimed by Kroger Co. and relabeled.

26627. Frozen crabmeat. (F.D.C. No. 44551. S. Nos. 43-606/7 R.)

QUANTITY: 39 5-lb. cans at Seattle, Wash.

SHIPPED: 11-23-59, from Charleston, Oreg.

LIBELED: 4-29-60, W. Dist. Wash.

CHARGE: 402(a) (3)—contained decomposed crabmeat while held for sale.

DISPOSITION: 6-17-60. Default—destruction.

FRUITS AND VEGETABLES

DRIED FRUIT

26628. Dried figs. (F.D.C. No. 43577. S. No. 72-614 P.)

QUANTITY: 2,623 ctns., 36 1-lb. cans each, at New York, N.Y.

SHIPPED: 10-22-55 and 11-2-55, from Athens, Greece.

RESULTS OF INVESTIGATION: Examination showed that the article was undergoing chemical decomposition.

LIBELED: 10-16-59, S. Dist. N.Y.

CHARGE: 402(a) (3)—contained a decomposed substance while held for sale.

DISPOSITION: 3-2-60. Default—destruction.

FROZEN FRUIT

26629. Frozen cranberries. (F.D.C. No. 43823. S. No. 70-400 P.)

QUANTITY: 703 50-lb. bags at Swedesboro, N.J.

SHIPPED: 10-27-59, from Carver, Mass., by Eric H. Huikari.

LIBELED: 11-24-59, Dist. N.J.

CHARGE: 402(a)(2)—the article was a raw agricultural commodity and, when shipped, contained a pesticide chemical, namely, aminotriazole, which is unsafe within the meaning of 408 since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on cranberries has been prescribed by regulations.

DISPOSITION: 12-22-59. Default—destruction.

VEGETABLES AND VEGETABLE PRODUCTS

26630. Canned green beans. (F.D.C. No. 44241. S. No. 85-455 P.)

QUANTITY: 63 cases, 24 15½-oz. cans each, at Bronx, N. Y.

SHIPPED: 11-17-59, from Hampstead, Md., by Hampstead Packing Co.

LABEL IN PART: (Can) "Iona Cut Green Beans * * * The Great Atlantic & Pacific Tea Co., New York, N. Y., Distributors."

LIBELED: 2-19-60, S. Dist. N. Y.

CHARGE: 402(a)(3)—contained insects, insect larvae, and insect-damaged beans when shipped.

DISPOSITION: 3-21-60. Default—destruction.

26631. Canned peas. (F.D.C. No. 44667. S. No. 11-990 R.)

QUANTITY: 173 cases, 24 1-lb. 1-oz. cans each, at Chicago, Ill.

SHIPPED: 5-13-60, from Oconomowoc, Wis., by Oconomowoc Canning Co.

LABEL IN PART: (Can) "Natco Small Early June Peas * * * Distributors National Food Stores * * * Chicago, Ill."

LIBELED: 6-17-60, N. Dist. Ill.

CHARGE: 402(a)(3)—contained insects and insect larvae when shipped.

DISPOSITION: 7-14-60. Default—destruction.

26632. Sweet pickles and sweet mixed pickles. (F.D.C. No. 43684. S. Nos. 39-978 P, 48-289/91 P.)

INFORMATION FILED: 3-10-60, N. Dist. Calif., against Irvington Packing Co., Inc., Irvington, Calif., and James H. Campbell, president.

ALLEGED VIOLATION: On 9-15-58, 9-24-58, and 12-5-58, the defendant gave to firms engaged in the business of shipping various foods in interstate commerce, invoices containing a guaranty that the foods listed in the invoices were not adulterated within the meaning of the Federal Food, Drug, and Cosmetic Act.

On 9-15-58, 9-24-58, and 12-5-58, the defendants caused a number of jars of sweet pickles and sweet mixed pickles which were adulterated to be delivered to the holders of the guaranties.

CHARGE: 402(a)(3)—contained insects and insect fragments; and 402(a)(4)—prepared and packed under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 6-1-60. \$400 fine against the corporation and a \$225 fine against the individual.

26633. Stuffed olives. (F.D.C. No. 44105. S. No. 41-241 R.)

QUANTITY: 91 cases, 24 jars each, at St. Louis, Mo.

SHIPPED: 1-27-60, from Lansing, Ill., by Pantry Queen Food Products Co.

LABEL IN PART: (Jar) "Pantry Queen * * * Dr. Net Wt. 5 Ozs. Avd. Spanish Olives * * * Packed by Pantry Queen Food Products Co., Lansing, Ill."

RESULTS OF INVESTIGATION: Examination showed the article to be short weight.

LIBELED: 3-28-60, E. Dist. Mo.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents since the label statement "Dr. Net Wt. 5 Ozs." was inaccurate.

DISPOSITION: 7-1-60. Default—delivered to charitable institutions.

TOMATOES AND TOMATO PRODUCTS**26634. Canned tomatoes.** (F.D.C. No. 44583. S. No. 36-941 R.)

QUANTITY: 98 ctns., 24 1-lb. 12-oz. cans each, at Philadelphia, Pa.

SHIPPED: 3-14-60, from Westover, Md., by Long Bros., Inc.

LABEL IN PART: (Can) "JD Garden Gem Tomatoes * * * Distributed by J. T. Harrison & Associates Easton, Maryland."

LIBELED: 5-18-60, E. Dist. Pa.

CHARGE: 402(a)(3)—contained fly eggs and maggots when shipped.

DISPOSITION: 7-8-60. Default—destruction.

26635. Tomato juice. (F.D.C. No. 44457. S. No. 8-318 R.)

QUANTITY: 528 cases, 12 1-qt. 14-oz. cans each, at Pittsburgh, Pa.

SHIPPED: 2-9-60, from Greenville, Ohio, by Greenville Canning Co.

LABEL IN PART: (Can) "Sweet Taste Brand Tomato Juice * * * Packed For PH. Stein & Bros., Pittsburgh, Pa."

LIBELED: 5-17-60, W. Dist. Pa.

CHARGE: 402(a)(3)—contained fly eggs, maggots, and decomposed tomato material when shipped.

DISPOSITION: 7-5-60. Default—destruction.

26636. Tomato puree. (F.D.C. No. 44193. S. No. 96-927 P.)

QUANTITY: 199 cases, 48 10½-oz. cans each, at Elmsford, N.Y.

SHIPPED: 12-14-59, from Hanover, Pa., by Hanover Canning Co.

LABEL IN PART: (Can) "Iona Tomato Puree * * * The Great Atlantic & Pacific Tea Co., New York, N.Y. Distributors."

LIBELED: 1-25-60, S. Dist. N.Y.

CHARGE: 402(a)(3)—contained fly eggs, maggots, and decomposed tomato material when shipped.

DISPOSITION: 3-2-60. Default—destruction.

26637. Tomato puree. (F.D.C. No. 44221. S. No. 96-926 P.)

QUANTITY: 299 cases, 48 10½-oz. cans each, at Bronx, N.Y.

SHIPPED: 12-12-59, from Hanover, Pa., by Hanover Canning Co.

LABEL IN PART: (Can) "Iona Tomato Puree * * * The Great Atlantic & Pacific Tea Co. New York, N.Y. Distributors."

LIBELED: 2-24-60, S. Dist. N.Y.

CHARGE: 402(a)(3)—contained fly eggs and maggots when shipped.

DISPOSITION: 3-21-60. Default—destruction.

NUTS

26638. Shelled Spanish peanuts. (F.D.C. No. 44124. S. No. 14-563 R.)

QUANTITY: 160 125-lb. bags at Louisville, Ky.

SHIPPED: 1-27-60, from Arlington, Ga., by Arlington Oil Mills, Inc.

LIBELED: 4-14-60, W. Dist. Ky.

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 4-29-60. Consent—claimed by Clark Foods, Inc., Louisville, Ky. Segregated; 248 lbs. denatured.

26639. Shelled Spanish peanuts. (F.D.C. No. 44081. S. No. 29-805 R.)

QUANTITY: 18,000 lbs. at St. Paul, Minn.

SHIPPED: 1-26-60, from Gorman, Tex.

LIBELED: 3-9-60, Dist. Minn.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 3-21-60. Consent—claimed by Pearson Candy Co., St. Paul, Minn. Segregated; 476 lbs. found unfit.

26640. Shelled pecans. (F.D.C. No. 42636. S. No. 1-339 P.)

QUANTITY: 38 30-lb. cases at Thomasville, Ga.

SHIPPED: September 1958, from Tallahassee, Fla.

LIBELED: 12-11-58, M. Dist. Ga.

CHARGE: 402(a)(3)—contained moldy nuts while held for sale.

DISPOSITION: 1-9-59. Default—delivered to a public institution for use as animal feed.

26641. Unshelled pecans. (F.D.C. No. 43963. S. No. 85-668 P.)

QUANTITY: 13 50-lb. bags at New York, N.Y.

SHIPPED: 11-7-59, from Albany, Ga.

LIBELED: 12-30-59, S. Dist. N.Y.

CHARGE: 402(a)(3)—contained moldy, decomposed nuts, and empty shells while held for sale.

DISPOSITION: 3-22-60. Default—destruction.

26642. Unshelled pecans. (F.D.C. No. 43978. S. Nos. 75-385 P, 75-392 P.)

QUANTITY: 240 bags, 29,082 lbs. total, and 270 100-lb. bags, at Chicago, Ill.

SHIPPED: 11-5-59 and 11-13-59, from Tifton, Ga.

LIBELED: 12-21-59, N. Dist. Ill.

CHARGE: 402(a)(3)—contained decomposed, shriveled nuts, and empty shells while held for sale.

DISPOSITION: 4-11-60. Consent—claimed by Frank P. Phillips, t/a United Nut Co., Chicago, Ill. The pecans were reconditioned by shelling and cleaning; 28,447 lbs. of shells and 291 lbs. of pecan meats were destroyed.

26643. Unshelled pecans (2 seizure actions). (F.D.C. Nos. 44003, 44017. S. Nos. 65-607 P, 65-612 P.)

QUANTITY: 193 cases, 24 1-lb. bags each, at Denver, Colo.

SHIPPED: 11-16-59, from Cairo, Ga.

LIBELED: 12-21-59 and 1-5-60, Dist. Colo.

CHARGE: 402(a)(3)—contained moldy and decomposed nuts while held for sale.

DISPOSITION: 1-20-60. Consent—claimed by W. H. Robinson, Inc., Cairo, Ga. Segregated; 1,008 lbs. of shelled nutmeats were found to comply with the law and were released; the remainder destroyed.

26644. Unshelled pecans. (F.D.C. No. 43869. S. No. 71-088 P.)

QUANTITY: 100 bags, 30 3-lb. bags each, at Nashville, Tenn.

SHIPPED: 10-26-59, from McRae, Ga.

LIBELED: 12-4-59, M. Dist. Tenn.

CHARGE: 402(a)(3)—contained moldy, rancid, decomposed, and shriveled nuts, and empty shells while held for sale.

DISPOSITION: 12-31-59. Consent—claimed by Valda Wooten, McRae, Ga. Segregated; 1,401 lbs. found unfit.

26645. Pinon nuts. (F.D.C. No. 44042. S. No. 65-366 P.)

QUANTITY: 31 68-lb. bags at Denver, Colo.

SHIPPED: 7-10-59, from Gallup, N. Mex.

LIBELED: 1-27-60, Dist. Colo.

CHARGE: 402(a)(3)—contained animal excreta and rodent urine while held for sale.

DISPOSITION: 2-26-60. Consent—claimed by Stephens Nut Sales, Inc., Denver, Colo. Segregated; 130 lbs. destroyed.

26646. Pinon nuts. (F.D.C. No. 44086. S. No. 44-968 P.)

QUANTITY: 10 80-lb. bags at El Paso, Tex.

SHIPPED: 10-12-59, from Springerville, Ariz., by Dennis Green.

LIBELED: 3-15-60, W. Dist. Tex.; libel amended 3-17-60.

CHARGE: 402(a)(3)—contained animal excreta when shipped.

DISPOSITION: 6-22-60. Default—delivered to a public institution for use as animal feed.

26647. Pinon nuts. (F.D.C. No. 44091. S. No. 44-965 P.)

QUANTITY: 5 80-lb. bags at El Paso, Tex.

SHIPPED: 11-25-59 and 12-2-59, from Phoenix, Ariz., by Romney Produce Co.

LIBELED: 3-15-60, W. Dist. Tex.

CHARGE: 402(a)(3)—contained animal excreta when shipped.

DISPOSITION: 6-22-60. Default—delivered to a public institution for use as animal feed.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE

26648. Vitamin tablets. (F.D.C. No. 43462. S. No. 69-668 P.)

QUANTITY: 21 cases, 72 100-tablet btls. each, at Fargo, N. Dak., in possession of M. T. Steidl, Inc.

SHIPPED: 9-17-57, from Chicago, Ill.

LABEL IN PART: (Btl.) "Good Health Vitamins * * * A Dietary Supplement For Vim, Vigor and Vitality * * * Each Tablet Contains * * * 30.00 mgm Vitamin C * * * 1.00 mgm Vitamin B-1 * * * M. T. Steidl, Inc., Fargo, N. Dak."

RESULTS OF INVESTIGATION: Examination showed that the article contained approximately 61 percent of the declared amount of vitamin C and approximately 79 percent of the declared amount of vitamin B₁.

The article was repacked by the dealer from bulk stock shipped as described above.

LIBELED: 9-30-59, Dist. N. Dak.

CHARGE: 402(b)(1)—while held for sale, the valuable constituents, vitamin C and vitamin B₁, had been in whole or in part omitted or abstracted from the article; 403(a)—the label statement "Each tablet contains * * * 30.00 mgm vitamin C * * * 1.00 mgm vitamin B₁" was false and misleading; and 403(f)—the information required under 403(e) to appear on the labeling of the article was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling), and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

DISPOSITION: 4-5-60. Consent—claimed by M. T. Steidl, Inc., and relabeled.

26649. Vitamin-mineral chewable tablets. (F.D.C. No. 43651. S. No. 72-690 P.)

QUANTITY: 99 1,000-tablet cans at Brooklyn, N.Y.

SHIPPED: 7-27-59, from Philadelphia, Pa.

RESULTS OF INVESTIGATION: Examination of the article showed that it contained approximately 81 percent of the declared amount of vitamin C, approximately 84 percent of the declared amount of vitamin B₁₂, approximately 85 percent of the declared amount of vitamin B₁, and approximately 200 percent of the declared amount of vitamin A.

LIBELED: 11-12-59, E. Dist. N.Y.

CHARGE: 402(b)(1)—while held for sale, the valuable constituents, vitamin C, vitamin B₁₂, and vitamin B₁, had been in part omitted or abstracted from the article; and 403(a)—the label statements "Vitamin A 2500 USP Units * * * Thiamine HCl (Vitamin B₁) * * * 1 mg. * * * Vitamin B₁₂ USP * * * 3 mcg. * * * Ascorbic Acid * * * 30 mg." were false and misleading.

DISPOSITION: 12-16-59. Default—destruction.

26650. Vitamin and mineral tablets and capsules. (F.D.C. No. 44684. S. Nos. 44-113/15 R, 44-117/18 R.)

QUANTITY: 16 12-btl. cases of geriatric formula capsules, 18 12-btl. cases of vitamin A capsules, 40 12-btl. cases of vitamin B₁ tablets, 9 12-btl. cases of vitamin and mineral capsules, and 17 12-btl. cases of capsules of B₁₂ with B complex, at Seattle, Wash., in possession of Bartell Drug Co.

SHIPPED: Between 5-18-59 and 4-27-60, from Portland, Oreg., by Stanley Drug Products, Inc.

LABEL IN PART: (Btls.) "Septol 100 Capsules Geriatric Formula For the Middle-aged Distributed by Bartell * * * Drug Stores * * * List No. 400," "Septol 100 Capsules Vitamin A 25,000 USP Units Distributed by Bartell * * * Drug Stores * * * OEA 21 * * * List No. 10," "Septol 100 Tablets Vitamin B-1 Thiamin Chloride U.S.P. 100 mg. Distributed by Bartell * * * Drug Stores * * * Each Tablet is equivalent to 33,000 USP Units of Vitamin B-1 * * * List No. 154," "Septol 100 Capsules Tinicaps Vitamins-Minerals For Children * * * Distributed by Bartell * * * Drug Stores * * * CB 59 * * * List No. 635," and "Septol 100 Capsulettes Fortified B-12 With B-Complex Distributed by Bartell * * * Drug Stores * * * ODH 30 * * * List No. 110-8."

ACCOMPANYING LABELING: A number of proof sheets, newspaper mats, and tear sheets pertaining to advertisements of the articles in the May 12, 1960 issues of the Seattle Shopping News and the Seattle Times.

LIBELED: 6-27-60, W. Dist. Wash.

CHARGE: Geriatric formula capsules, 403(a)—when shipped and while held for sale, the label statement with reference to dl-methionine and potassium in the article "Need in human nutrition has not been established" was false and misleading since the need for dl-methionine and potassium in human nutrition has been established; and the name of the article and the labeling contained false and misleading representations that the nutritional requirements of adults in middle age and old age were different from adults generally, and that the article would maintain vigor, vitality, and activity in such individuals.

Vitamin A capsules, 403(a)—while held for sale, the accompanying labeling of the article contained false and misleading representations that the article was adequate and effective for fatigue, healthful development of bones and teeth, and that it would correct skin blemishes from within; and 403(j)—the article purported to be and was represented as a food for special dietary use by reason of its vitamin content and its label failed to bear, as required by regulations, a statement of the proportion of the minimum daily requirement for vitamin A supplied by the article when consumed in a specified quantity during the period of one day.

Vitamin B₁ tablets, 403(a)—while held for sale, the accompanying labeling of the article contained false and misleading representations that the article was adequate and effective for loss of appetite, general weakness, and to soothe jittery nerves.

Vitamin and mineral capsules, 403(a)—while held for sale, the accompanying labeling of the article contained false and misleading representations that the article was adequate and effective to produce strong bones, sound teeth and blood, and healthy bodies in growing children.

Capsules of B₁₂ with B complex, 403(a)—when shipped, the name of the article was misleading since the article contained ingredients in addition to vitamin B₁₂ and the vitamin B complex, and the statement on the label of the article "this product affords in one capsulette * * * 66% this requirement of Iron" was false and misleading since it was contrary to fact, and the labeling accompanying the article when shipped and while held for sale, contained false and misleading representations that the article was adequate and effective

to produce vibrant health and good rich blood; and 403(j)—the article purported to be and was represented as a food for special dietary use by reason of its vitamin content and its label failed to bear, as required by the regulations, a statement of the proportion of the minimum daily requirement for vitamin C supplied by the article when consumed in a specified quantity during the period of one day.

DISPOSITION: 6-30-60. Consent—claimed by Stanley Drug Products, Inc., and relabeled.

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SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS

	N.J. No.		N.J. No.
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Arlington Oil Mills, Inc.:		sweet pickles and sweet mixed pickles	26632
shelled Spanish peanuts	26638	Canadian Fish Producers, Ltd.:	
Bartell Drug Co.:		frozen whitefish fillets	26623
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¹ (26603) Injunction issued.

	N.J. No.		N.J. No.
Continental Grain Co.:		Lawrence Warehouse Co.:	
wheat-----	26608	flour-----	26601
Dalco Fisheries, Inc.:		Levin, S. M.:	
frozen dressed whiting-----	26624	frozen eggs-----	26617
Davis, L. A.:		Long Bros., Inc.:	
wheat-----	¹ 26603	canned tomatoes-----	26634
Dettor, Edwards & Morris, Inc.:		M-B Food Sales, Inc.:	
flour-----	26602	rice-----	26610
Empire Cold Storage & Ice Co.:		Michigan Elevator Exchange:	
wheat-----	¹ 26603	wheat-----	26609
Empire Elevator. <i>See</i> Empire		Michigan Milk Producers Asso-	
Cold Storage & Ice Co.		ciation:	
Esmond Equity & Trading Co.:		butter-----	26613
wheat-----	26606	Mott, A. H.:	
Fairmont Foods Co.:		incubator reject eggs-----	26620
cream-----	26616	National Food Stores:	
Farmers Union Elevator Co.:		canned peas-----	26631
wheat-----	26604, 26607	Oconomowoc Canning Co.:	
Green, Dennis:		canned peas-----	26631
pinon nuts-----	26646	Pantry Queen Food Products Co.:	
Greenville Canning Co.:		stuffed olives-----	26633
tomato juice-----	26635	Romney Produce Co.:	
Hampstead Packing Co.:		pinon nuts-----	26647
canned green beans-----	26630	Sherwood, S. C.:	
Hanover Canning Co.:		cream-----	26616
tomato puree-----	26636, 26637	Silberman, H. S.:	
Harrison, J. T., & Associates:		incubator reject eggs-----	26619
canned tomatoes-----	26634	Sniderman Bros.:	
Huikari, E. H.:		rice-----	26611
frozen cranberries-----	26629	Stanley Drug Products, Inc.:	
Hulsey, Harold:		vitamin and mineral tablets	
frozen eggs-----	26618	and capsules-----	26650
Irvington Packing Co., Inc.:		Steidl, M. T., Inc.:	
sweet pickles and sweet mixed		vitamin tablets-----	26648
pickles-----	26632	Stein, Phil, & Bros.:	
Jewell, M. B.:		tomato juice-----	26635
frozen eggs-----	26618	Straker-Cross, Ltd.:	
incubator reject eggs-----	26619	frozen whitefish fillets-----	26623
Karan, Robert:		Superior Frozen Foods, Inc.:	
frozen eggs-----	26618	frozen eggs-----	26618
Keith, Wilbert:		Technical Egg Products, Inc.:	
frozen eggs-----	26617	frozen eggs-----	26617
Keystone Fisheries, Ltd.:		Warner Cooperative Elevator	
fresh dressed whitefish-----	26621	Co.:	
Klarer Co.:		wheat-----	26605
butter-----	26614, 26615	West Coast Fish Co., Inc.:	
Kroger Co.:		canned tuna-----	26626
canned tuna-----	26626	West Texas By-Products, Inc.:	
Lane, Charles:		incubator reject eggs-----	26619
incubator reject eggs-----	26620	Wilkerson, J. E.:	
Lanesville Creamery Co.:		wheat-----	¹ 26603
butter-----	26614, 26615	Wilkerson, W. R.:	
		wheat-----	¹ 26603

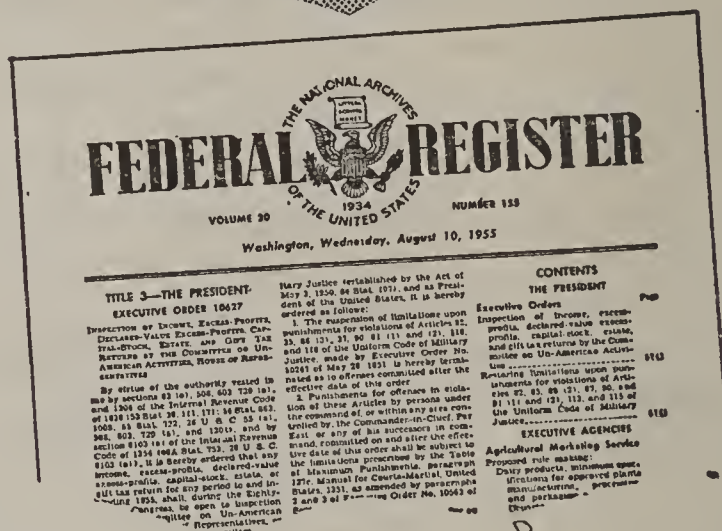
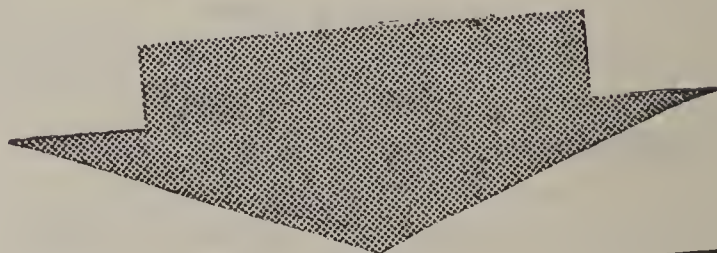
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